



**SPECIAL MEETING
OF THE MADERA CITY COUNCIL**

205 W. 4th Street, Madera, California 93637

NOTICE AND AGENDA

**Wednesday, February 20, 2019
6:00 p.m.**

**Council Chambers
City Hall**

CALL TO ORDER

ROLL CALL: Mayor Andrew J. Medellin
Mayor Pro Tem Steve Montes, District 3
Council Member Cece Gallegos, District 1
Mayor Pro Tem Jose Rodriguez, District 2
Council Member Derek O. Robinson Sr., District 4
Council Member Santos Garcia, District 5
Council Member Donald E. Holley, District 6

INVOCATION: April Molina, Love Madera

PLEDGE OF ALLEGIANCE:

PUBLIC COMMENT:

The first fifteen minutes of the meeting are reserved for members of the public to address the Council on items which are within the subject matter jurisdiction of the Council. Speakers shall be limited to three minutes. Speakers will be asked to identify themselves and state the subject of their comment. If the subject is an item on the Agenda, the Mayor has the option of asking the speaker to hold the comment until that item is called. Comments on items listed as a Public Hearing on the Agenda should be held until the hearing is opened. The Council is prohibited by law from taking any action on matters discussed that are not on the Agenda, and no adverse conclusions should be drawn if the Council does not respond to public comment at this time.

PRESENTATIONS None.

INTRODUCTIONS None.

A. WORKSHOP

There are no items for this section.

B. CONSENT CALENDAR

There are no items for this section.

C. HEARINGS, PETITIONS, BIDS, RESOLUTIONS, ORDINANCES, AND AGREEMENTS

There are no items for this section.

D. WRITTEN COMMUNICATIONS

There are no items for this section.

E. ADMINISTRATIVE REPORTS

E-1 Request for Direction on Obtaining Interim Legal Services and Next Steps in Filling the City Attorney Vacancy (Report by Arnaldo Rodriguez)

F. COUNCIL REPORTS

G. CLOSED SESSION

There are no items for this section.

ADJOURNMENT – Next regular meeting March 6, 2019

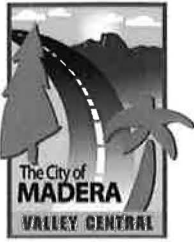
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- Please silence or turn off cell phones and electronic devices while the meeting is in session.
 - Regular meetings of the Madera City Council are held the 1st and 3rd Wednesday of each month at 6:00 p.m. in the Council Chambers at City Hall.
 - Any writing related to an agenda item for the open session of this meeting distributed to the City Council less than 72 hours before this meeting is available for inspection at the City of Madera Office of the City Clerk, 205 W. 4th Street, Madera, California 93637 during normal business hours.
 - The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Request for additional accommodations for the disabled, signers, assistive listening devices, or translators needed to assist participation in this public meeting should be made at least seventy-two (72) hours prior to the meeting. Please call the Human Resources Office at (559) 661-5401. Those who are hearing impaired may call 711 or 1-800-735-2929 for TTY Relay Service.
 - Questions regarding the meeting agenda or conduct of the meeting, please contact the City Clerk's office at (559) 661-5405.
 - Para asistencia en Español sobre este aviso, por favor llame al (559) 661-5405.
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I, Sonia Alvarez, City Clerk for the City of Madera, declare under penalty of perjury that I posted the above agenda for the special meeting of the Madera City Council for February 20, 2019, near the front entrances of City Hall at 5:30 p.m. on February 19, 2019.



Sonia Alvarez, City Clerk



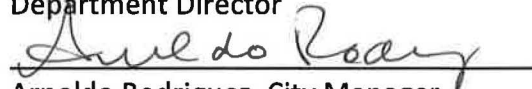
REPORT TO CITY COUNCIL

Approved by:

Council Meeting of: February 20, 2019

Agenda Number: E-1

Department Director


Arnoldo Rodriguez, City Manager

SUBJECT:

Request for Direction on Obtaining Interim Legal Services and Next Steps in Filling the City Attorney Vacancy

RECOMMENDATION:

Staff recommends the City Council (Council) provide direction to obtain immediate legal services through the City's purchase order process and begin the steps necessary to secure a contract legal service provider through a Request for Proposals (RFP) for interim services. Staff further recommends Council begin discussion on whether to hire in-house counsel or move to a contracted out model for City Attorney legal services.

SUMMARY:

The City Attorney position is currently vacant due to the departure of Brent Richardson. Staff is seeking direction from Council on immediate procurement of legal services and procurement of interim services. Council is also being asked to discuss and potentially provide direction on whether the City should begin a recruitment for in-house counsel or pursue a contract legal services model.

DISCUSSION:

The City has been utilizing a full time, in-house licensed attorney for performance of City Attorney duties. The City Attorney's office in recent years has been staffed with one Paralegal and the City Attorney. Historically, the office at times has also been staffed with a Deputy City Attorney. Former City Attorney Brent Richardson's last day with the City was February 16, 2019, and the City now finds itself needing immediate legal assistance from outside sources, as well as a plan for long term legal services. There are several factors at play in the decisions Council is being asked to contemplate, including the City's purchasing rules and labor relations requirements.

The City Attorney has a wide range of duties that the position either performs directly or oversees through the Paralegal. In summary, customary duties include:

- Reviewing all agendas for City Council, Successor Agency, Housing Authority, Planning Commission, and various other City committees/commissions, including review of all reports, resolutions, ordinances, agreements, etc.
- Review of RFPs to be published before publication.
- Scheduling and oversight of administrative appeal hearings for code enforcement violations and water citations; provide notice of denial of appeal if applicable.
- Preparation of all Court filings related to municipal code violations and other civil citations/matters including code enforcement, animal control situations, and unlawful detainer.
- Appearances at Court for Pitches Motions, Madera Municipal Code violation citations, Animal Control violation citations, unlawful detainer issues and similar matters.
- Prepare declarations and warrants as directed by the Court.
- Review of all Public Records Act requests as well as all documents scheduled for production.
- Provide direction to City staff on compliance with the Ralph M. Brown Act and other applicable statutes that affect the City of Madera's business.
- Litigate matters not covered by the City's insurance pool, to include land use and planning issues, breach of contract matters, and the like.
- Provide litigation oversight for all tort liability claims and litigation filed through this process.
- File restraining orders on behalf of City staff, as necessary, when circumstances affect their work.
- Prepare deeds of reconveyance for the Grants Department.
- Prepare demands for payment and corresponding Release of Lien with regard to outstanding payoff of Notice of Lien recorder with the Madera County Recorder's office.
- Prepare, submit, monitor and maintain accounts submitted to the Interagency Intercept Collections program with the State of California Franchise Tax Board.

The City has many matters on calendar with Madera Superior Court. Staff has reached out to the Court to advise Court staff that the City is currently without a City Attorney. While staff will continue to try to move pending matters that are already scheduled, the City has been advised that Orders to Show Cause will be issued if no prosecutor is present for a scheduled matter, and the City will receive one opportunity to appear after that, then the matter will be dismissed.

Police Chief Lawson reached out to the District Attorney (DA) to determine whether the DA's office would be able to assist with the City's court matters. At this time, the DA is willing to consider covering criminal matters already filed with the court, with the City reimbursing expenses. This would not include any court matters for items other than criminal situations. The DA will not file any new matters on behalf of the City, nor appear for non-criminal matters. If the City wishes to pursue this option, an agreement will need to be pursued between the City and County to establish the scope of services and cost of said services.

The adopted Fiscal Year 2018-19 total budget for the City Attorney's department includes budgeted expenses of \$467,635 and anticipated revenues of \$37,188, for a net expense of \$430,447. The majority of these expenses are related to salary and benefits. Should the Council decide to proceed with in-house counsel going forward, these numbers may change based on Council's desired compensation package. City staff reached out to other Central Valley cities that contract out for legal services. On short notice, staff from these cities were able to provide either actual expenditures or budgeted funds so that Council has a ballpark figure on the cost of contracting out, either in the interim or long term. This information is summarized in Table 1, attached to this report.

Under the City's purchasing policies, a purchase order can be used to obtain services up to \$50,000 in value. Anything more than \$50,000 requires an RFP. Depending on how the Council desires to proceed, the City may need to obtain immediate legal services through a purchase order while publishing a fast-tracked RFP for interim legal services. A typical RFP is published for thirty (30) days and then there is a vetting process and contract award, which can take an additional 45-60 days depending on the processes involved. If Council directs staff to proceed with an RFP for interim legal services, it will likely be published for three (3) weeks at most, with the intent to award an agreement within 30-45 days of the RFP closing. This will hopefully put an agreement for interim services in place before the purchase order reaches its \$50,000 limit. Following these two processes, staff would proceed with Council's direction for long term legal services, either through in-house counsel or by contracted legal services.

If the Council wants to explore contracting out legal services long term, it will have meet and confer requirements with the Mid Management Bargaining Unit, which represents the Paralegal position in the City Attorney's office. If the Council desires to contract out because it believes it can achieve work efficiencies, the City will have a requirement to meet and confer with the bargaining unit on the effects of that decision. If the Council desires to contract out because it believes this will save the City money, then the City will need to meet and confer over the decision itself.

At this time, staff believes it is imperative to secure temporary contract legal services through the City's purchase order process. This will allow for the City's day-to-day business to continue. Staff is requesting direction from Council on how to proceed and has provided some alternatives for consideration below in the Alternatives section of this report. Council may have other ideas on how to proceed and staff looks forward to working with Council to find the best solution for the organization.

FINANCIAL IMPACT:

The financial impact at this time is unknown and will depend on direction provided by the City Council.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

The requested action is not addressed in the vision or action plans; the requested action is also not in conflict with any of the actions or goals contained in that plan.

ALTERNATIVES:

Unless Council knows of a qualified attorney interested to start immediately as an interim in-house City Attorney, staff is requesting direction on which of the following alternatives to pursue. Council will also need to decide, based on the alternative(s) selected, whether a Council ad hoc or the full Council will be involved in the selection process for the various options.

1. Direct the City Manager to contact known legal firms that provide contract City Attorney work to other cities and procure immediate, necessary services under a purchase order.
2. Direct the City Manager to work with Madera County and the District Attorney's office to secure an agreement for assistance with criminal court matters.
3. Conduct a fast-tracked recruitment for an interim in-house City Attorney. There may be potential candidates currently retired willing to work part time or there may be individuals willing to work for the City for a limited duration due to other reasons.
4. Conduct fast-tracked RFP for interim legal services.
5. Conduct a full recruitment for an in-house City Attorney.
6. Conduct an RFP for long term contracted legal services.

ATTACHMENTS:

1. Table 1, Summary of Costs for Contract Legal Services in other Central Valley Cities.

Table 1. Summary of Costs for Contract Legal Services in other Central Valley Cities

City	Population*	Contract Firm	Firm Location	Cost	Comments
Reedley	25,419	Lozano Smith	Fresno	\$67,213 FY18 Actual	
Tulare	62,296	Griswold, LaSalle, Doud, Cobb & Gin	Hanford	\$20,000/month flat fee \$175-250/hour litigation \$90/hour paraprofessional \$50/hour clerical	Any litigation (anything that requires a court filing) is billed at the hourly rate in addition to the flat fee. This is a new agreement, so actual expenditures are not yet available. Travel, office supplies and copy charges are in addition to the flat fee.
Hanford	55,599	Griswold, LaSalle, Doud, Cobb & Gin	Hanford	\$650,000 FY19 budget	FY16 Actual \$822,476 FY17 Actual \$724,913 Services include all litigation matters for the City
Porterville	58,782	McCormick, Kabot, Jenner & Lew	Visalia	\$225,000 FY19 budget	Staff indicated there are very few criminal matters involving the City Attorney
Clovis	104,411	Lozano Smith	Fresno	\$831,600 FY19 budget	FY17 Actual \$666,074 FY18 Estimated Actual \$828,300

*Population estimates taken from factfinder.census.gov, 2017 American Community Survey