



**CITY OF HUNTINGTON BEACH  
SUPPLEMENTAL COMMUNICATION  
Joan L. Flynn, City Clerk  
Office of the City Clerk**

**TO:** Honorable Mayor and City Council  
**FROM:** Joan L. Flynn, City Clerk *JLF*  
**DATE:** July 23, 2012  
**SUBJECT: SUPPLEMENTAL COMMUNICATIONS FOR THE JULY 23, 2012, CITY COUNCIL/PFA SPECIAL MEETING**

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Attached is Supplemental Communications to the City Council (received after distribution of the Agenda Packet):

Administrative Items

#1. Communication submitted by Linda Masterton, dated July 22, 2012, entitled *Fireworks Initiative*.

Councilmember Items

#2. Communication submitted by Scott Field, Assistant City Attorney, undated and entitled *Comments Regarding "Outsourcing" of City Attorney Office*.

**Esparza, Patty**

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**From:** Fikes, Cathy  
**Sent:** Monday, July 23, 2012 10:39 AM  
**To:** Esparza, Patty  
**Subject:** FW: Fireworks Initiative

-----Original Message-----

**From:** Linda Masterton [mailto:momcat99@verizon.net]  
**Sent:** Sunday, July 22, 2012 7:04 PM  
**To:** Boardman, Connie  
**Cc:** Fikes, Cathy  
**Subject:** Fireworks Initiative

I sincerely hope that if a measure is placed on the November ballot, the wording will be simple and straightforward so everyone knows exactly what they are voting for. Instead of "....prohibit the city from banning the sale....", why not just ask "Should fireworks be permanently banned in Huntington Beach".

Thank you,  
Linda Masterton  
Huntington Beach

**SUPPLEMENTAL  
COMMUNICATION**

Meeting Date: 7/23/2012

Agenda Item No. 1

RECEIVED

COMMENTS REGARDING "OUTSOURCING" OF CITY ATTORNEY OFFICE 2012 JUL 23 PM 4:49

Scott Field, Assistant City Attorney

CITY OF HUNTINGTON BEACH

1. Management Partners Performance Review of City Attorney Office (CAO). (June 2011). The Executive Summary states  
 "The CAO's budget has decreased by 22% over the past five years. In fiscal year (FY) 2010/11 seven full-time positions were eliminated including three attorneys, three administrative support positions and one investigator position. The CAO now has 11 full-time staff.  
 "Benchmarking with five comparable peer agencies shows the Huntington Beach CAO budget is lower than the median for both total dollar and per capita measurements. Staffing levels are also significantly lower than the median. Huntington Beach has few attorneys than peer agencies and few paralegal and administrative support staff than all but one of the peer agencies. Although Management Partners was asked to identify opportunities to improve efficiency and reduce costs further, our analysis indicates the CAO is currently a very lean operation. "
2. Per Capita Cost. City Attorney FY 2011/12 General Fund Budget-\$2,161,624. At a population of 189,992, the per capita expenditure is \$11.37.
3. Comparison to Costa Mesa. Costa Mesa is represented by Jones & Mayer. General non-litigation and litigation expenditures for first 10 months of 2011/12 are \$1,143,396 or \$1,379,275 per year. At a population of 109,960, the City Attorney per capita expenditure is \$12.54, which is over \$1 more per capita than Huntington Beach. (The Costa Mesa City Attorney budget attached; see article that City Attorney is exceeding its budget.)
4. Costa Mesa Outsourcing. Costa Mesa has been in protracted litigation regarding its attempt to outsource city jobs. Costa Mesa's defense costs for outsourcing litigation were \$803,493 for first ten months of fiscal year.
5. City Charter Section 403-Personnel System. The Huntington Beach Charter requires a personnel system that governs the advancement, demotion, suspension and discharge of employees. This means that attorneys and staff may not be discharged "without cause." The "H" item is to direct staff to issue a Request for Qualifications for municipal attorney services in time for the 2012-2013. If implemented, this would amount to firing all ten members of the City Attorney Office, effective October 1, 2012, without cause, and replacing them with contract attorneys and staff.

This plan violates the Charter, as well as its ordinances, regulations and MOUs which implement the Charter. I ask you to reject it.

**SUPPLEMENTAL COMMUNICATION**

Meeting Date: 7-23-2012

Agenda Item No. 2

## Executive Summary

The mission of the Huntington Beach City Attorney's Office (CAO) is to "provide the best possible representation to the City in all lawsuits and administrative matters; to provide excellent legal advice and services to the City Council and to all City officers and employees; and to prosecute, in the name of the People, all violations of the City Charter and Municipal Code."

Management Partners was retained in 2000 to conduct an organizational review of the CAO. This assessment resulted in 33 recommendations to improve customer service, staff accountability, and operational efficiencies. Many of these recommendations were subsequently implemented by the current City Attorney who was elected in 2002.

Like many cities, Huntington Beach has experienced financial challenges as a result of declining revenues combined with increasing costs. As has happened in many other cities, funding for non-public safety departments has been reduced to preserve public safety to the greatest extent possible. As a result, the CAO's budget has decreased by 22% over the past five years. In fiscal year (FY) 2010/11 seven full-time positions were eliminated including three attorneys, three administrative support positions, and one investigator position. The CAO now has 11 full-time staff.

Benchmarking with five comparable peer agencies shows the Huntington Beach CAO budget is lower than the median for both total dollar and per capita measurements. Staffing levels are also significantly lower than the median. Huntington Beach has fewer attorneys than peer agencies and fewer paralegal and administrative support staff than all but one of the peer agencies. Although Management Partners was asked to identify opportunities to improve efficiency and reduce costs further, our analysis indicates the CAO is currently a very lean operation.

As funding and staffing have declined, so has the workload. The number of Requests for Legal Services for calendar year 2010 represents an almost 20 percent decrease from 2008. The number of litigation cases also has declined by approximately 31% since 2007.

One of the areas identified for improvement in our 2000 report was the customer service being provided by the CAO to other City departments. Through interviews conducted with the Mayor and City Council members, department directors and several division managers, we evaluated current perceptions of customer service in several areas which had been identified for improvement in our original report. The most common customer service concerns centered around turnaround times for routine work, poor quality control for written work, inconsistent communication about changes in workload priorities, and lack of communication about the status of litigation and pending client work.

Although the City Attorney is recognized for her personal accessibility and responsiveness, the review identified opportunities to improve the consistency of responsiveness of other CAO staff. Additional areas for improvement include enhancing accountability through annual performance evaluations (which also were identified in the 2000 report), establishing clear supervisory authority, and developing and implementing staff training plans. Finally, an opportunity exists to improve the daily operation of the CAO by identifying a second in command to function as a managing city attorney and relieve the City Attorney of some administrative functions.

The 13 recommendations contained in this report are summarized in Attachment A.

Subject to policy established by the City Council, exercise control of all administrative offices and departments of the City and of all appointive officers and employees, and prescribe such general rules and regulations as deemed necessary or proper for the general conduct of the administrative offices and departments of the City under their jurisdiction.

(h) Perform such other duties consistent with this Charter as may be required by the City Council.

**Section 402. ACTING CITY MANAGER.** During any temporary absence or disability of the City Manager, the City Manager shall appoint one of the other officers or department heads of the City to serve as Acting City Manager. In the event the City Manager fails to make such appointment, such appointment may be made by the City Council.

**Section 403. PERSONNEL.** In addition to the City Council, a City Clerk, a City Treasurer, a City Attorney and City Manager, the officers and employees of the City shall consist of such other officers, assistants, deputies and employees as the City Council may provide by ordinance or resolution. The City Council shall establish such reasonable compensation and fringe benefits as are appropriate by ordinance or resolution for such offices, officials and employees except as herein provided.

The City Council shall maintain by ordinance a comprehensive personnel system for the City. The City Manager and any officers designated as elective by the Charter shall be exempt. The system shall consist of the establishment of minimum standards of employment and qualifications for the various classes of employment and procedures to be followed in advancement, demotion, suspension and discharge of employees included within the system, as the City Council shall determine to be for the best interest of the public service. The ordinance shall designate the appointive officers and employees who shall be included within the system. By subsequent ordinances the City Council may amend the system or the list of appointive officers and employees included within the system. The system shall comply with all other provisions of this Charter.

It shall be the duty of all department heads, whether appointed or elected, to assist and cooperate with the City Manager in administering the affairs of the City in the most efficient, fiscally responsible, and harmonious manner consistent with the duties as prescribed by law, City Charter, or by ordinance.

**Section 404. RETIREMENT SYSTEM.** The City shall participate in a retirement system.

**Section 405. BOARDS, COMMISSIONS AND COMMITTEES.** The City Council shall establish such boards, commissions and committees as are deemed necessary for the orderly functioning of the City. All such boards, commissions and committees shall report directly to the City Council.

## ARTICLE V ORDINANCES AND RESOLUTIONS

**Section 500. REGULAR ORDINANCES. ENACTMENT, ADOPTION, PUBLICATION, AMENDMENT, WHEN EFFECTIVE AND CODIFICATION.**

(a) **Enactment.** In addition to such other acts of the City Council as are required by this Charter to be taken by ordinance, every act of the City Council establishing a fine or other penalty, or granting a franchise, shall be by ordinance. The enacting clause of all ordinances shall be substantially as follows: "The City Council of the City of Huntington Beach does ordain as follows:" No order for the payment of money shall be adopted or made at other than a regular or adjourned regular meeting. Upon introduction, an ordinance shall be read by title only. Unless a higher vote is required by other provisions of this Charter, the affirmative vote of at least four of the City Council shall be required for the enactment of any ordinance or for the making or approving of any order for the payment of money. All ordinances shall be signed by the Mayor and attested by the City Clerk.



**City Attorney**  
**Adopted Budget - FY 2011/12**  
**Department Budget Summary**  
**All Funds by Object Account**

**DEPARTMENT**

Expenditure Object Account	FY 2007/08 Actual	FY 2008/09 Actual	FY 2009/10 Actual	FY 2010/11 Adopted	FY 2010/11 Revised	FY 2011/12 Adopted	Percent Change From Prior Year
<b>All Funds</b>							
<b>PERSONAL SERVICES</b>							
Salaries, Permanent	1,798,576	1,729,864	1,641,494	1,622,980	1,355,761	1,355,553	-16.48%
Salaries, Temporary	51,135	56,250	50,082	51,900	67,020	26,900	-48.17%
Salaries, Overtime	2,893	4,524	4,441				
Leave Pay Outs	964	73,583	96,101				
Benefits	597,367	551,099	551,086	516,062	468,101	522,169	1.18%
<b>PERSONAL SERVICES</b>	<b>2,450,936</b>	<b>2,415,320</b>	<b>2,343,204</b>	<b>2,190,942</b>	<b>1,890,882</b>	<b>1,904,622</b>	<b>-13.07%</b>
<b>OPERATING EXPENSES</b>							
Utilities	150						
Equipment and Supplies	88,353	104,755	70,604	68,900	68,900	68,900	0.00%
Repairs and Maintenance				1,000	1,000	1,000	0.00%
Conferences and Training	18,568	14,165	2,841	15,000	15,000	15,000	0.00%
Professional Services	254,158	277,098	264,204	362,500	394,453	267,865	-26.11%
Other Contract Services	59,142	56,238	81,214	44,500	44,650	44,500	0.00%
Rental Expense	3,318	3,145	3,088	3,737	3,737	3,737	0.00%
Expense Allowances	5,969	5,924	6,023	6,000	6,000	6,000	0.00%
Other Expenses	745	1,052	352				
<b>OPERATING EXPENSES</b>	<b>430,403</b>	<b>462,377</b>	<b>428,325</b>	<b>501,637</b>	<b>533,740</b>	<b>407,002</b>	<b>-18.87%</b>
<b>Grand Total</b>	<b>2,881,339</b>	<b>2,877,696</b>	<b>2,771,529</b>	<b>2,692,579</b>	<b>2,424,622</b>	<b>2,311,624</b>	<b>-14.15%</b>
General Fund	2,771,022	2,736,425	2,656,638	2,492,579	2,202,824	2,161,624	-13.28%
Other Funds	110,317	141,272	114,891	200,000	221,799	150,000	-25.00%
<b>Grand Total</b>	<b>2,881,339</b>	<b>2,877,696</b>	<b>2,771,529</b>	<b>2,692,579</b>	<b>2,424,622</b>	<b>2,311,624</b>	<b>-14.15%</b>
<b>Personnel Summary</b>	<b>18.00</b>	<b>18.00</b>	<b>18.00</b>	<b>11.00</b>	<b>11.00</b>	<b>11.00</b>	<b>0.00</b>

Legal Expenditures FY 2011/12



Month	NON-LITIGATION EXPENDITURES (General Fund)				LITIGATION EXPENDITURES BY (Self Insurance Fund)				REDEVELOPMENT AGENCY FEES				TOTAL LEGAL FEES			
	Jones and Mayer (General)	Charisse Smith (Homeless Task Force)	Libert Cassidy Whitmore (Labor Negotiations)	Henson Bidgett (RFP Outsourcing)	Non-Litigation Total	Jones and Mayer (General Litigation)	Jones and CMCEA (Litigation)*	Jones Day (CMCEA Litigation)	Talen	Woodruff Spradlin & Smart	Affordable Legal	Litigation Total		Jones and Mayer (Non-Litigation)	Stradling Yocca Carlson & Rauh (General)	Total RDA Legal Fees
July	\$ 60,353	\$ 2,500	\$ -	\$ -	\$ 62,853	\$ 46,232	\$ 7,167	\$ -	\$ 11,180	\$ -	\$ -	\$ 64,579	\$ 2,150	\$ -	\$ 2,150	\$ 129,582
August	58,863	-	-	-	58,863	48,900	981	-	-	-	248	50,129	1,451	-	1,451	110,443
September	69,890	4,260	-	23,723	97,873	44,522	1,310	99,662	8,845	77	-	154,416	-	-	-	232,289
October	94,699	-	-	-	94,699	30,401	1,328	-	-	-	-	31,729	-	-	-	126,428
November	53,018	2,400	-	20,190	75,608	59,943	1,487	308,762	-	1,523	-	371,735	-	7,119	7,119	454,462
December	37,822	3,000	-	541	41,363	73,162	478	81,919	-	6,952	-	162,511	-	-	-	203,874
January	61,573	1,800	-	673	64,046	55,227	708	87,319	-	-	-	143,254	2,142	3,770	5,912	213,212
February	72,451	-	-	-	72,451	43,232	1,434	114,698	-	-	-	158,424	1,257	11,344	12,601	244,476
March	80,363	2,320	17,948	-	100,631	39,354	920	-	-	-	-	40,274	-	-	-	140,905
April	76,025	-	13,710	-	89,735	43,306	17	95,283	-	53	-	138,659	531	-	531	228,925
May	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
June	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Total</b>	<b>\$ 665,057</b>	<b>\$ 16,280</b>	<b>\$ 31,658</b>	<b>\$ 45,127</b>	<b>\$ 758,122</b>	<b>\$ 484,339</b>	<b>\$ 15,830</b>	<b>\$ 787,663</b>	<b>\$ 20,025</b>	<b>\$ 8,605</b>	<b>\$ 248</b>	<b>\$ 1,316,709</b>	<b>\$ 7,531</b>	<b>\$ 22,233</b>	<b>\$ 29,764</b>	<b>\$ 2,104,595</b>

Note: Legal fees shown above are for the month services were rendered.

\* Jones & Mayer legal fees for CMCEA litigation in FY 2010/11 was \$6,013

[dailypilot.com/news/tn-dpt-0721-legalfees-20120720,0,7923983.story](http://dailypilot.com/news/tn-dpt-0721-legalfees-20120720,0,7923983.story)

## Daily Pilot

### Costa Mesa spends \$10K more in legal fees

**Union rep says promised savings for the city have never materialized. Righeimer counters that savings will come.**

By Joseph Serna

8:24 PM PDT, July 20, 2012

The Costa Mesa city attorney's office exceeded its budget for the second year in a row, setting a new high-water mark for the city since it contracted with the Jones & Mayer law firm.

According to invoices from the Fullerton-based firm, Costa Mesa spent \$827,229.77 in nonlitigation spending, surpassing last year's total of about \$817,000 and exceeding the city attorney's budgeted \$803,000 by about 3% for the 2011-12 fiscal year.

Since outsourcing its legal services to Jones & Mayer in the 2004-05 fiscal year, Costa Mesa had not exceeded \$550,000 in annual expenses before these last two years, records show.

The city has no inside counsel.

"When you look at it, since the beginning of this whole thing, the City Council has said we need to pursue outsourcing to save money, and none of these savings have materialized," Orange County Employees Assn. spokeswoman Jennifer Muir said.

But Mayor Pro Tem Jim Righeimer said the savings will come.

"Clearly, we can lower all the costs in the city tomorrow just by throwing in the towel and handing the city control over to the employee groups," said Righeimer, who has spearheaded the effort to outsource multiple city services that began in 2011. "The fruit of that labor has not been realized yet ... the changes have to be made now. Nobody said it wasn't going to cost money to get it done."

Councilwoman Wendy Leece disagreed.

"Spending this amount is irresponsible," she wrote in an email. "Had the city's policies and contracts with employees been followed, the excessive spending on attorneys [in] the past 18 months would have been unnecessary.

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"I hope Costa Mesa taxpayers are outraged with this excess. I am."

The costs mirror what it cost Costa Mesa with in-house counsel, which ranged from \$700,000 to \$860,000, according to city data.

"Once outsourcing contracts are in place, once we decide what to outsource and what not to and we get through litigation, I expect it to drop to a normal amount of operating a city," Righeimer said. "I definitely see it going back down."

The city CEO's office rang up \$183,342.30 in legal expenses this past fiscal year, about 22.1% of the city attorney's budget. Work for the City Council cost \$126,507.35, or 15.2%, and the Police Department tapped the firm for \$129,479.89 worth of work, or 15.6%.

The law firm charged \$60,073.37 for code enforcement, or about 7% of the city attorney's budget. The rest of the money was scattered among other departments and projects, such as the city clerk's office, human resources and Homeless Task Force.

Jones & Mayer charged \$568,505.24 in litigation costs, which comes out of the city's self-insurance fund. Costa Mesa appears to be under budget in that fund.

"I think these high, exorbitant fees are just another example of the huge cost of this City Council majority's bad priorities and their ideological, political agenda," Muir said. "And when you think of all they cut, you get a real idea of what this money could've been used to pay for."

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