

AGENDA ITEM #11a.

CITY COUNCIL COMMUNICATION FORM

FROM: Dan Foote, City Attorney

DATE: January 9, 2017

ITEM: City Attorney Report

ORDINANCE
 RESOLUTION
 MOTION
 DIRECTION
 INFORMATION

1. Howelsen Hill Joint Use Agreement

This item was intended to be a review of a document negotiated between the City and the Steamboat Springs Winter Sports Club. This document is not ready for review. Staff requests that this item be postponed to January 23, 2018

2. Quarterly Litigation Update

Attached is a summary of developments in the City's pending litigation and administrative matters. This document will also be posted to the City Attorney page of the City's website.

QUARTERLY REPORT RELATING TO LITIGATION AND ADMINISTRATIVE MATTERS

January 9, 2017

Resolved litigation matters

Manley v City of Steamboat Springs

CLAIM: This lawsuit is the Mr. Kenneth Manley's Rule 106 challenge to the April 26, 2016 City Council decision approving the 1125 Lincoln Project.

STATUS: On August 22, 2017 Judge Hill entered an order reversing the Council's approval of height, setback, and FAR variances for the project. On September 19, 2017 the Council voted not to appeal this order. The Council's decision not to appeal effectively resolves this case.

The initial phase of the case was handled by Steve Dawes, who was appointed by CIRSA pursuant to a \$10,000 insurance line applicable to Rule 106 claims. This coverage was sufficient to pay Mr. Dawes to prepare the City's response to Mr. Manley's claims and to generally represent the City through the February 7, 2017 hearing at which the City Council adopted findings of fact. Since then, the case has been handled in house by the City Attorney's office.

Mr. Dawes also provided an opinion as to the strength of the City's grounds to challenge the August 22, 2017 ruling.

Pending litigation matters

Sieverding v City of Steamboat Springs (2016 Case)

CLAIM: Ms. Sieverding on October 21, 2016 filed claims in the Routt County District Court against the City that relate to requests for the release or modification of certain records.

STATUS: The City has filed both a motion to dismiss and a motion for an order prohibiting Ms. Sieverding from filing any lawsuits in state court in this district until and unless she obtains an attorney.

The motions have been fully briefed and were argued to the Court on June 12, 2017. The parties submitted proposed orders, findings of fact, and conclusions of law to the Court between June 29 and July 3 and are awaiting the Court's decision.

On October 10, 2017 Ms. Sieverding filed a motion to dismiss her own claims in this case. This motion is pending.

The defense of Ms. Sieverding's claims to date has been handled by Steve Dawes pursuant to a \$10,000 insurance line applicable to Rule 106 actions. The motion for filing restrictions has been handled by the City Attorney's office.

City of Steamboat Springs v. Kay Sieverding (2017 Case)

CLAIM: This claim was commenced by the City pursuant to the Colorado Open Records Act ("CORA"). The City is seeking an order finding that responding to Ms. Sieverding's CORA requests would do substantial injury to the public interest and that the City may deny such requests on that basis.

STATUS: The City Attorney's office filed an amended complaint on May 2, 2017. Ms. Sieverding filed a motion to dismiss dated June 22, 2017. On July 14, 2017 Ms. Sieverding withdrew the motion to dismiss and instead filed an answer and six counterclaims. In her first four counterclaims, Ms. Sieverding attempts to relitigate the Sieverding-Bennett dispute from her 2002 Colorado U.S. District Court lawsuit. Her remaining two counterclaims allege that Ms. Sieverding is entitled to a release of various alleged records under CORA.

On August 8, 2017, the City successfully moved to consolidate this case with the 2016 Case. Both cases are now assigned to the judge handling the 2016 Case.

The City also moved to dismiss Ms. Sieverding's counterclaims. This motion is pending.

On October 10, 2017, Ms. Sieverding moved to dismiss her counterclaims against the City. This motion is pending.

The defense of Ms. Sieverding's counterclaims has been handled by Mr. Steve Dawes pursuant to the City's insurance coverage. The City Attorney's office has been handling the City's CORA claim.

Administrative matters

Liquor code violations.

The City has one pending liquor code action relating to an allegation of service of minors at Colorado High Five. The parties have reached an agreement to settle this action, but have not yet presented the settlement agreement to the Liquor Licensing Authority Hearings Officer.

Prosecution of liquor code violations are handled by the City's Staff Attorney.