

# CITY COUNCIL COMMUNICATION FORM

**FROM:** Dan Foote, City Attorney  
**THROUGH:** N/A  
**DATE:** July 3, 2018  
**ITEM:** City Attorney Report: Quarterly Report on Litigation and Administrative Matters.

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<input type="checkbox"/>	DIRECTION
<input checked="" type="checkbox"/>	INFORMATION
<input type="checkbox"/>	ORDINANCE
<input type="checkbox"/>	MOTION
<input type="checkbox"/>	RESOLUTION
<input type="checkbox"/>	PROCLAMATION

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## **I. REQUEST/ISSUE & BACKGROUND INFORMATION:**

Pending litigation matters

Ryan Fisher v. City of Steamboat Springs

**CLAIM:** This matter is a Rule 106 challenge to the City Council's decision on April 17, 2018 to deny a land use application that would have permitted Rocky Mountain Remedies to relocate its marijuana business to 410 S. Lincoln Ave. Mr. Fisher filed his complaint in Routt District Court on May 11, 2018.

**STATUS:** The City Attorney's office moved to dismiss on the grounds that the district court lacks jurisdiction over the subject matter of the complaint. The parties are currently engaged in briefing preliminary procedural motions.

Mr. Fisher alleges that certain confidential and privileged communications between the City Attorney and members of the City Council should be certified as part of the record. The City has objected on the grounds that these

documents are privileged. The Council has the ability to waive the privilege as to any or all of these documents by majority vote.

#### 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.

City of Steamboat Springs v. 7th St. Liquor

This item relates to an allegation of a sale to a minor on April 11, 2018. The hearings officer determined that probable cause existed to find that a violation had occurred and scheduled a show cause hearing for July 19, 2018. This matter is being handled by the City's Staff Attorney.

**II. SUMMARY AND ALTERNATIVES:**

N/A

**III. STAFF RECOMMENDATION:**

N/A

**IV. FISCAL IMPACT:**

N/A

**V. LEGAL ISSUES:**

N/A

**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:**

N/A

**VII. CONSISTENCY WITH COUNCIL GOALS AND POLICIES:**

N/A

**ATTACHMENTS:**

None.