

CITY COUNCIL COMMUNICATION FORM

FROM: Dan Foote, City Attorney
THROUGH: N/A
DATE: January 8, 2019
ITEM: City Attorney's Quarterly Report Relating to Litigation and Administrative Matters.

<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

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 District Court granted the City's motion to dismiss on December 12, 2018. Mr. Fisher filed a motion for reconsideration on December 26, 2018. That motion is pending.

Although the City's voters approved a Charter amendment at the November 6, 2018 election that restores District Court jurisdiction, that amendment does not apply to Mr. Fisher's claims.

This matter is being handled by the City Attorney's office.

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 filed 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 ("Motion for Filing Restrictions").

On December 30, 2018 the Court granted the City's Motion for Filing Restrictions and awarded attorney fees. Ms. Sieverding is now prohibited from filing lawsuits in the 14th Judicial District unless she is represented by an attorney. Ms. Sieverding may choose to appeal the Court's order to the Colorado Court of Appeals.

On October 10, 2017 Ms. Sieverding filed a motion to dismiss her own claims in this case. The Court granted the motion to dismiss on September 9, 2018. Ms. Sieverding's claims against the City have been fully resolved.

The defense of Ms. Sieverding's claims was 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.

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. On October 10, 2017, Ms. Sieverding moved voluntarily to dismiss her counterclaims against the City. The Court granted this motion on September 9, 2018. Ms. Sieverding's counterclaims against the City have been fully resolved but the City's claims are still 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

City of Steamboat Springs v. 7th St. Liquor

This item relates to an allegation of a sale to a minor on November 10, 2018. This matter is being handled by the City's Staff Attorney.

City of Steamboat Springs v. Central Park Liquor

This item relates to an allegation of a sale to a minor on November 10, 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.