



**CITY OF NEWARK  
DELAWARE**

November 18, 2016

TO: Carol Houck, City Manager

FROM: Andrew S. Haines, Deputy City Manager 

RE: Fiscal Assessment of City Solicitor Operations and In-House Counsel Assessment

At the December 14, 2015 City Council meeting, upon consideration of a rate increase request for the solicitor, the suggestion was made to review the cost for in-house legal services. Councilman Chapman made this suggestion with consensus of Council supporting the information request. To that end, I submit the below review of current encumbrances and propose a path forward. I believe a move to operating with in-house legal counsel is fiscally supported and would be Charter compliant.

The current structure of the solicitor is fulfilled via a third-party consulting service with Losco and Marconi, with two staff members serving the City. Including the lead prosecutor work on the City's behalf in Alderman's Court operations, as well as providing all other general legal services, the 12-month look back on encumbered costs for Losco and Marconi is \$347,900. Between the two staff members, average monthly time spent for the City is 129 hours for general solicitor tasks and 89 hours for Alderman's Court prosecution tasks. When reviewing a full-time equivalent position at 2,080 hours a year (40 hours per week), the combined average is approximately 35 hours per month over a full-time equivalent position. With coordinated tasks, incurred hours could be achieved and the City would realize an appropriate job scope of approximately 40 hours per week. Reviewing the billed hours, it would be the expectation that in-house counsel would be 60% general City services and 40% Alderman's Court 40 prosecution work.

Further assessing the fully-burden expense of an in-house counsel position, I reviewed other government agencies with legal counsel (New Castle County and Wilmington) to discern an appropriate salary range. I also met in confidence with other attorneys to discern if scope of work, compensation and benefits were aligned with a reasonable expectation for success. The following chart provides the fiscal breakdown of estimated cost for full-time counsel:

	Min Range	Max Range
FT Solicitor Salary	\$ 125,000.00	\$ 145,000.00
FICA/Medicare	\$ 9,562.50	\$ 11,092.50
401A	\$ 9,375.00	\$ 10,875.00
RHS	\$ 1,359.28	\$ 1,359.28
Medical/Dental/Vision	\$ 24,095.00	\$ 24,095.00
Life/LTD Insurance	\$ 550.00	\$ 550.00
	\$ 169,941.78	\$ 192,971.78
Assistant Prosecutor	\$ 30,000.00	\$ 30,000.00
	\$ 199,941.78	\$ 222,971.78
Annual Savings vs. Current	\$ 147,906.55	\$ 124,876.55

This chart demonstrates the suggested minimum (\$125,000) and maximum (\$145,000) salary range for the position, with each value providing some variations with burdened expenses. Fiscal review also assumed an arrangement for an Assistant Prosecutor to support the position, as one person would have time off and way from the office. The \$30,000 value assumes a \$125/hour rate, which translates to 20-hours per month supporting the City solicitor. This arrangement could be with another legal firm or be a part-time hire.

After the fiscal review, I approached whether an in-house counsel position would be Code or Charter compliant. The City Charter, Article VI, Chapter 601, states that the City Council shall:

The council shall appoint an officer of the city who shall have the title of city solicitor. He shall be a member of the bar of the State of Delaware. It shall be his duty to give legal advice to the council, city manager, department heads, other officers of the city, and to all city departments, offices and agencies. He shall represent the city in all legal proceedings and shall perform such other legal services as may be required of him by council, city manager, this charter, by law or by ordinance. Council may procure such additional legal services as it may deem to be required.

To effectuate an in-house counsel position, Council can make an appointment, similar to the City Manager, with an employment agreement that would still meet the terms of the Charter. The employment agreement should have language on termination, for-cause separation, notice not to renew, etc., among various supportive and protection clauses. With a Council sub-committee along with the City Manager's Office, a candidate could be selected through an interview process that is then appointed as in-house counsel. He or she would coordinate on a day-to-day basis with the City Manager with the expectation that the right candidate could fulfill the majority of general legal service needs. There is not an expectation that this one person be the sole attorney for the City. Special counsel would be leveraged as needed, however, such additional legal

expenses, including labor counsel, would be mitigated by having a staff member available 40 hours per week. This is not only my assessment, but concurred by the consulting of other attorneys on City operations. This is analogous to an engineering benchmark of using the 85<sup>th</sup> percentile for assessment; the in-house solicitor would be expected to achieve most, but not all of the City's needs for legal services.

To conclude, if Mayor and Council support the assessment that the right person could fulfill an in-house solicitor role, then the fiscal support and operational structure is present for success. As noted above, this action could reduce expenses of approximately \$125,000 to \$150,000 per year, and should mitigate the special legal services incurred annually. If you include the partial reduction in special legal counsel expenses that include zoning, real estate and labor, the annualized reduction could be \$150,000 to \$200,000. To tangibly name a few benefits beyond pure financial savings noted above, the in-house counsel position would:

- Provide legal guidance and assistance with City operations and initiatives from the start of a project.
- Thorough involvement and preparedness on City matters at public meetings with his or her involvement throughout.
- Development of ordinances, contract updates, timely legal opinions to State amendments or proposed laws.
- Direct participation with union negotiations, workers comp cases, personnel policy reviews and other labor relation matters.

With proper commitment to a professional and thorough recruitment, I believe the City of Newark benefits financially, but even more so, operationally to a consider in-house counsel position. I am available to further discuss this assessment at your request.

c: Dave Del Grande, Director of Finance