



City of Lansing

OFFICE OF THE CITY ATTORNEY

Brig Smith, City Attorney

MEMORANDUM

TO: VIRG BERNERO, MAYOR
FROM: BRIG SMITH, CITY ATTORNEY
DATE: JANUARY 21, 2008
RE: ANNUAL REPORT FOR 2007

BACKGROUND

Under Charter, as part of the Mayor's annual State of the City Address, the Mayor is to report on the activities of the departments and agencies of the City, including outlining their activities and offering observations on their effectiveness. Each department has submitted an Annual Report providing such outlines and observations. This is the Annual Report for the Office of the City Attorney (the "Office" or the "OCA").

EXECUTIVE SUMMARY

The OCA had an eventful 2007. This memorandum reports on our activities based on each function we perform. As "law firm to the City," our mission is to meet or exceed, in both quality and scope, the legal services available from the leading private law firms in the State.

As a full-service firm, the OCA undertakes at least 17 separate over-arching functions:

OFFICE FUNCTION	TASK	SUBTASK
ADMINISTRATIVE	INTERNAL OFFICE ADMINISTRATION	Manage "law firm" for City, and offer legal counsel and direction regarding various issues or matters of concern that arise for managers of other City departments.
BOARD & COMMITTEE ASSIGNMENTS	STAFFING OF CITY BOARDS AND COMMISSIONS	Staff more than 25 standing Boards and Council committees on an on-going basis, providing legal review of and advice regarding the products and output of each.

BWL	ADVISE BWL	Provide legal advice to BWL on an ongoing basis.
CLAIMS	CLAIMS REVIEW	Review, evaluate and administer claims against City for miscellaneous personal and property damage (e.g. sewer backup claims).
COLLECTIONS & BANKRUPTCY	COLLECT DEBTS FOR CITY	Pursue collections and litigate on behalf of City in bankruptcies (between 25 and 50 matters at any given time and representing an estimated \$1 million in outstanding obligations to City).
CONTRACTS	REVIEW AND APPROVE AS TO FORM ALL CONTRACTS	Review and approve as to form all contracts on behalf of City, including all contracts for boards, commissions, and committees.
DEVELOPMENT	NEGOTIATE AND REVIEW CITY DEVELOPMENT	Review and negotiate proposed real estate transactions involving City property (approximately 20 major deals pending at any given time).
DISTRICT COURT	PROSECUTION	Prosecute all misdemeanor violations and civil infractions on behalf of the City, including administration of its Diversion program.
FOIA	REVIEW AND ANSWER ALL REQUESTS	Answer in first instance all FOIA requests directed to City and review significant FOIA requests directed to Lansing Police Department.
HOUSING/ NEIGHBORHOODS	LIAISON	Act as liaison between City and its citizens regarding housing and neighborhood concerns (approximately 50-75 major housing matters monthly and daily minor matters requiring calls, meetings, and correspondence).
INSURANCE CLAIMS	MANAGE ADMINISTRATION OF CLAIMS	Review all incoming claims against City and act as liaison with carrier to resolve claims that do not proceed to litigation.
LITIGATION (INSIDE)	IN-HOUSE REPRESENTATION	Provide in-house counsel to City on matters in pending or active litigation, including all appeals (approximately 20 major cases pending at any time).
LITIGATION (OUTSIDE)	SUPERVISE OUTSIDE COUNSEL	Coordinate and oversee litigation for which City retains outside counsel (approximately 15 cases pending at any time, and 15 pending appeals).
OPINIONS (FORMAL)	ISSUE WRITTEN OPINIONS ON MAJOR QUESTIONS	Issue binding legal opinions on major questions.

OPINIONS (INFORMAL)	ISSUE VERBAL OPINIONS ON MINOR QUESTIONS	Provide oral opinions on questions as they arise.
ORDINANCES/ RESOLUTIONS	REVIEW AND APPROVE	Review and approve as to form all resolutions and ordinances (several hundred resolutions in 2007 and several major ordinances).
POLICE	ADVISE LPD	Provide legal advice to Police department on an ongoing basis (currently handled through Assistant City Attorney/Police Legal Adviser).

The rest of this report will provide details on some of the more important tasks and subtasks the Office undertook within these functions as a Year in Review feature for 2007.

THE YEAR IN REVIEW



Over the course of 2007, the Office of the City Attorney successfully transitioned into a digitized, modernized, and "privatized" law firm for the City, and has accomplished some truly amazing things on behalf of the City. Here are some highlights:

Administration



Office of the City Attorney Modernized, Digitized, and "Privatized"

- Coming from a leading law firm, one of the City Attorney's highest priorities when taking office was to bring to the Office the same technology, tools, and techniques used in the state's best firms so that it could equal or exceed those firms. This meant modernizing, digitizing, and "privatizing" the Office.
 - Modernizing: The Office of the City Attorney now truly serves as General Counsel to the City as a municipal corporation, with centralized review of all City legal matters and billings.
 - Digitizing: We scanned our most important work product, including historical documents that date back to the 1930's, so that they will be text searchable and forever available. The City Attorney has also spearheaded transitioning the entire City's numerous software platforms into an integrated Enterprise Management Software system.
 - "Privatizing": The Office of the City Attorney now employs the same management tools and philosophies used in managing complex litigation in private practice. The result? A leaner and meaner "law firm" for the City capable of doing more with less.
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Development



- **Landmark Deal Reached to Regionalize the Zoo**
 - We successfully negotiated a complicated operating agreement that keeps Potter Park Zoo under City ownership but adds County-level management-*and funding*.
 - The deal at least doubles Zoo funding and spreads the Zoo's costs across all residents of Ingham County, not just citizens of Lansing.
 - Other local governments have watched this deal closely as a model of regionalism as they struggle to do less with more in the face of urban sprawl and the restructuring of local economies into a single global one.
 - While the Zoo has always been an asset *for* the entire region, now it will be funded by assets *from* the entire region.

 - **Capitol Club Tower**
 - In a very rapid turnaround, we took the developers' concept and negotiated a finalized Comprehensive Development Agreement, which passed unanimously.
 - The concept, now signed, sealed, and delivered, calls for Lansing's first high-rise building in decades, with the top reaching from 12 to 20 stories.

 - **Fast-Track Negotiations**
 - Two major projects were announced in autumn— the Accident Fund's world headquarters in the Ottawa Power Station and Gene Townsend's Kalamazoo Gateway.
 - The Office of the City Attorney committed to having final Comprehensive Development Agreements on file for each project before the end of the year—and did so.
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- **Ottawa Power Station**
 - Dubbed the “Phoenix Project” internally, in autumn, the Accident Fund announced its new world headquarters in the defunct Ottawa Power Station.
 - The \$180 million project involved one of the most complicated incentive and development packages in the state, if not the nation.
 - The Office of the City Attorney was proud to quarterback the best legal talent in the region to a remarkably fast final Comprehensive Development Agreement.

 - **Kalamazoo Gateway**
 - While negotiating the Power Station project, we also negotiated a complicated buy-and-sell agreement with developer Gene Townsend.
 - Townsend’s project would be an environmentally friendly mixed retail/residential “gateway” from the South Side to Downtown.
 - Working in conjunction with BWL, the project will also open up a “gateway” for walkable access to the Grand River.

 - **City Gets Cutting Edge Cable Deal**
 - In the face of volatile changes in state and federal cable law, we secured a deal that puts Lansing among the leaders in the State.
 - The new deal means several hundred thousand dollars in additional revenue to the City--*per year*.
 - We also secured a separate deal with another service provider who is new to the area: this means even more financial security for the City and even more viewing choices for its citizens.

 - **Ball Park North and Market Place projects Continue as Well**
 - While sealing the Ottawa Power Station and Kalamazoo Gateway projects, we have been working on a collaborative effort to define the best vision for our Lansing Market in the next century, while drawing on its history from the past century.
 - The collaborative process should wrap up in the not too distant future, which will allow the OCA to flesh in the details for these twin developments.

 - **Cranes Back in the Air and People Back on the Streets**
 - We have closed several deals working with the City's bold and talented economic development team, including PND Director Bob Johnson and EDC President Bob Trezise.
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- For the first time in years, Downtown's storefronts are no longer vacant, cranes are back up in the air, and people are here after 5:00.
- We are proud to have played a part in the City's renaissance in the last year and look forward to even bigger and better things in the next year.

Litigation



- **City Takes Wolverine Pipeline Fight Back to Supreme Court**

- The City has once again turned to the Michigan Supreme Court in its ongoing efforts to prevent Big Oil interests from moving a gas pipeline into the South Side of Lansing.
- Instead of an existing, direct 8-mile route through upper middle class Meridian Township, the pipeline would take a new, circuitous 22-mile route through lower middle class South Lansing.
- The City previously prevailed against the pipeline in the Supreme Court, which prompted Big Oil to lobby the legislature to change the law.
- The City looks to prevail again in the Supreme Court by showing that this new legislation cannot trump the longstanding constitutional right to local control.

- **Office of the City Attorney wins Multi-Million Dollar Verdict**

- This year, Don Kulhanek won a trial in the Michigan Tax Tribunal involving a commercial property tax dispute of over \$5 Million in taxable value.
 - The verdict, which covers tax years 2005 and 2006, upheld the City's right to collect taxes it assessed on the property..
 - The victory signals a tough new approach on collecting debts owed to the City.
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Prosecution



- **Cops on Streets, Not in Seats**
 - We instituted a policy that allowed our police officers to focus on preventing crime in the field instead of waiting to testify in Court.
 - Under the policy, we offer zero-point pleas to traffic defendants prior to their Court date, but seek stiffer penalties if defendants wait until their Court date to plea or actually take the matter to trial.
 - The end result is police officers spending less time waiting in Court and more time working the streets.

Housing and Neighborhoods



- **Slumlords See Jail Time**
 - For the first time in nearly 15 years, the Office of the City Attorney secured jail time in housing cases.
 - Under our new Court Ordered Compliance Program, rather than continue to accumulate civil fines, we sought court orders that would result in jail time for chronic absentee landlords who failed to comply.
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- **Major Slumlord Boarded Up**

- At the end of the year, Assistant City Attorney Billie O'Berry secured an Order from the City Council to board up 709 W. Saginaw.
- The alleged drughouse was closed down as a public nuisance under the City's "Two Strikes and You're Out" Ordinance.
- This is a major coup against one of the City's largest and most problematic slumlords.



- **Biker Gang Booted**

- Assistant City Attorney Mark Leonard turned up the heat on a troublesome biker gang that occupied a building in South Lansing. Mark's dogged determination resulted in the gang vacating their building and the neighborhood reclaiming peace and quiet.

CONCLUSION

The OCA made great strides in 2007, largely on the basis of further integration of technological and management tools. We look forward to hitting the ground running in 2008 and building on our great 2007.
