

Department: County Attorney

Fund Number: 020  
Department Number: 151

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### **2023 Accomplishments:**

#### **1) LITIGATION & OUTSIDE APPEALS:**

- a) 2021CA1525, CR-5 Appeal: Secured favorable published Court of Appeals decision after assuming lead role in appellate litigation, submitting numerous briefs and supplemental briefs, securing amicus support from CCI, and arguing case before Court of Appeals
- b) 2023SC189: CR5 Second-Level Appeal: Secured denial of petition for review from Supreme Court (favorable outcome to County) after briefing with assistance from outside counsel
- c) 2019CW3098, Basin-Wide Water Development Project Application: Finalized and transmitted two "global" settlement offers, assumed lead role in litigation/negotiations pursuant to 2017 IGA, established regular meetings with co-applicants/opposers to ensure open lines of communication, established regular motions practice, new extensive modeling/engineering
- d) 2021CW3064, CWCB ISF Cow Creek Filing: Tracked with 2019CW3098, regular communication with CWCB counsel and staff to ensure progress towards global resolution of both cases
- e) 2013CW3072, City Exchange Application: Entered substitute appearance as "Friendly Opposer," no entry in new "due diligence" case with BOCC consent (2022CW3081)
- f) 2023BAA1931, 2023BAA1936, 2023BAA1232, 2023BAA1874, Arbitrations x2 (Tax Appeals): Obtained one favorable settlement in BAA proceeding, prevailed with one arbitration, did not prevail with one arbitration, three BAA cases still pending, some motions practice
- g) 2023CV4, 23-CV-02384-SBP, 23-CV-02374-SBP, 23-CV-02371-SBP, 23-CV-02389-SBP (Inmate Civil Rights Filings): Monitored cases and provided necessary assistance where possible, engaged insurance defense, four cases dismissed, one case still pending
- h) 2023MH1, WC5-227-016 (Confidential/ Misc.): One District Court behavioral health proceeding closed, one Office of Administrative Courts work. comp. proceeding being monitored
- i) Overall Litigation Trends: 18 outside cases and appeals during 2023 (2 road, 3 water, 6 tax, 5 inmate, 2 misc.), 14 new, 4 old, 11 closed, 7 pending, 1 adverse decision, 10 favorable decisions
- j) Year Over Year: +10 docketed cases over 2022 (1 road, 3 water, 2 elections, 1 MJ, 1 BAA in 2022)

#### **2) CONTRACTS:**

- a) Reviewed: Approximately 132 major contracts at BOCC level (uptick from ~94 last year), many other more minor contracts reviewed/ standardized, estimate possibly 150-200 total
- b) Drafted: Approximately 50 new major contracts (based on "new" rate from last year), major uptick in highly complex contracts like SAAS and complex planning + road contracts/settlements
- c) Developed: continual development of new templates continues, notable 2023 contracts include: CR361 maintenance agreement, new major SAAS agreements, MS Support appeal settlement, Sneffels Vista stop work settlement, ORRCA contract termination, new water/forensic engineer contracts, new/unique Prop 123 IGA, joint planning IGA, CR24 flood control

3) DAY-TO-DAY MATTERS:

- a) Prioritized (approximate times): daily “check-ins” with county manager, weekly (or more) contacts with elected officials, monthly in-person meetings with sheriff and undersheriff, weekly in-person visits to planning director & road & bridge superintendent, other regular in-person visits to “satellite” county departments, monthly litigation-related executive sessions for efficiency, extensive formal training at outside and in-house events (40+ hours this year)
- b) Provided: regular memos to affected departments on statewide/federal regulatory changes, regular litigation support, regular contract support, frequent packet review, more frequent Planning Commission attendance and support, informal CORA/ public transparency support
- c) Green Efforts continue: paperless filing, composting efforts, walking meetings, bike commuting

4) CORA/ CCJRA REQUESTS:

- a) Fulfilled: at least 35 formal requests requiring attorney assistance, assisted with many others, slight down-tick from 2022 (~40 formal/complex requests in 2022 during elections year)
- b) Prioritized: media/public outreach, public transparency, informal dept. training, and timely fulfillment of requests, with no CORA lawsuits filed in 2023
- c) Implemented: New online CORA portal “build-out” completed with assistance from PIO & IT, beta-tested and bugs resolved, fully operational online system and new policy working well

5) WATER DEVELOPMENT:

- a) Finalized: no-call agreement amendment to include Bureau of Reclamation, new water engineer services, short-term water service lease executed to activate no-call agreement
- b) Developed: continual updates to water website to ensure public awareness and transparency,
- c) Consistent Outreach: Co-Applicants, Bureau of Reclamation, Opposers, Division Engineer, and other stakeholders to ensure timely project progress/ awareness, conducted/hosted/planned “town hall” style meeting in Oct. 2023 with many major stakeholders

6) OTHER MAJOR PROJECTS (by department):

- a) Assessor: Assisted with record volume of 2023 CBOE+ tax appeals, various prop HH issues
- b) Clerk: Assisted with redistricting measures, liquor licensing matters
- c) Coroner: Assisted with multiple confidential matters, completed new public records policy
- d) Emergency Manager: Secured three inter-agency EOPs
- e) Facilities Management: Led continuing resolution of outstanding HVAC issues, secured “Tolling Agreement,” assisted with long-term facilities planning and potential ballot measure efforts
- f) HR: Assisted with multiple confidential personnel matters, began employee handbook revisions, provided agreement+ notifications for employee affordable housing, benefit revisions
- g) IT & GIS: New retention policy changes, continual IT policy development, assisted with Google/SAAS transition in numerous areas
- h) PIO: Continued accessibility policy development and contracting, HB21-1110 requirements

- i) **Planning:** Master plan revisions ongoing, 7 formal cannabis hearings/review under new MJ ordinance (new application, mitigation plan, fine/warning, non-renewal, licensee transfers), frequent code enforcement matters (2-4 monthly), new expedited code enforcement procedures being developed (templates, NOVs, cease and desist, complaints, draft resolution pending), new expedited MJ+STR enforcement templates and procedures developed, STR ordinance revisions in progress, resolved rubbish ordinance matter, flood hazard regulations, reviewed and advised on ~43 formal planning matters/applications before BOCC (difficult to estimate total number of applications/matters reviewed, could be hundreds)
- j) **Mountain Rescue:** Drafted avalanche training area agreement (pending)
- k) **Road & Bridge:** Resolved CR361 Winter Maintenance Agreement, resolved multiple flood control/ditch disputes, drafted overweight permit resolution (pending), drafted over-the-snow resolution (pending), resolved multiple ROW permitting disputes including lower CR-14 area and upper CR5, resolved upper CR-14 and CR-9 access & ownership disputes, addressed multiple HOA maintenance requests and other property claims/disputes, many new WMAs
- l) **Sheriff:** Drafted posse agreement (pending), implemented CCJRA procedures/guidance, additional work on joint-departmental traffic calming strategies (pending)
- m) **Treasurer:** Assisted with CCI/ legislative changes for *Tyler v. Hennepin* deed issues/restrictions, assisted with various changes to new investment policy/procedures

7) **2024 GOALS (with 1, 5, 10, year strategic plans):**

1. **Litigation:** Wind down existing litigation including water court matters, avoid new litigation (besides code enforcement) through proactive dispute resolution and public transparency
2. **Contracts:** Continue regular review, continue process of standardization, continue admin. renewal procedures, continue to investigate efficiencies through e-sign/ contracts management software, begin to implement "attorney approval as to form" on all contracts with new attorney
3. **CORA requests:** Utilize assistance from PIO, IT, new attorney, and other departments where possible, utilize tech. efficiencies, conduct CORA/COML training, avoid litigation
4. **Day-to-Day Legal Advice:** Continue regular meetings and phone calls with county officials/employees to avoid "email burnout," continue regulatory tracking measures, find new ways to route public contacts, provide extensive support for 2024 general elections cycle
5. **Administrative/ Other:** Recruit/train/house new attorney position, execute identified 2023 goals of BOCC+ county manager and other departments, utilize outside counsel for litigation matters, continue resolving "backlog" of various legal issues before undertaking optional new projects, delegate "three Cs" of regular routine work to new attorney (contracts, CORA, code enforcement) to enable better legal support for other elected/appointed official policy priorities
6. **\*\*1 to 5 Year Strategic Plan Ideas:** Implement e-sign+ form approval contract procedures, assist county officials/employees with transitioning into larger county with increasing development/population/budget, achieve "stabilization" breakpoint with new projects/ new litigation, more active formal code enforcement, draft formal policies for contract review and planning/road dispute resolution procedures, investigate hearing officer needs or other efficiencies for CBOE+ MJ cases, monitor need for legal assistant position
7. **\*\*5 to 10 Year Strategic Plan Ideas:** Prepare for collective bargaining with population growth, explore consolidation for county policies/procedures, much more active code enforcement once staffing stabilizes, proactive (not reactive) project engagement, re-assume volunteering+ teaching roles once staffing/caseload stabilize, recruit legal assistant if necessary, full standardization of "three Cs" legal procedures (contracts, code enforcement, CORA)