



Annual Report 2013-2014 City Attorney

The following is a summary of the activities undertaken in the fiscal year 2013-2014:

1. Work on the new Rental Code.

I began work on the new rental code back in July of 2013. I researched a variety of other city's rental codes to get a feel for what they had in common. Ben Kohout also did substantial research. We collaborated to draft a unique code for the city. Our initial intent was to draft a code that addressed our primary concerns without being too difficult to comply with on the part of the landlords.

We had a public forum which did not go well. During that forum several of the landlords were very inappropriate with their language directed towards staff. This public meeting was not very productive. The same was true when the code was discussed at council study sessions. Several of the landlords were adamantly opposed to any code.

We put the code on hold for a period of time and then asked a number of landlords to meet with us to discuss the code again. That group of landlords formed an association. We started working with them on the code and progress was made. I believe that we can pass a rental code to become effective in July of 2015.

2. Litigation involving W & W Investments.

In 2011, when Gerald Carney was city attorney, he represented the city in litigation with W & W involving a drainage problem in the waterway between Willow Lawn Second Addition and Lenore Estates. I took over as city attorney in January of 2012. The ruling was filed in March of 2012 in favor of the City granting the City judgment against W & W for \$5,000 and ordering them to remove obstructions to the storm sewer. The defendants filed for modification of the decision. In an initial hearing on the motion for modification, the Judge indicated that she may be strongly considering removing the money judgment.

Because the decision did not solve all the problems in this area, we decided to attempt a more inclusive settlement.

Since the middle of 2012, I have been working with W & W and their attorney to resolve the drainage issues in that waterway. Working first with Dick Crayne in 2012, we tried to come up with reasonable solutions to the problems where the storm sewer from Willow Lawn enters the waterway. In late 2013 and early 2014, Phil and I continued our discussions with W & W and their attorney. The city offered to take some responsibility for the maintenance of the waterway. We could never reach a complete agreement and therefore no decision was rendered.

During the summer of 2014, no progress was made and we made a last effort to get the matter resolved. No resolution was made before the end of fiscal year 2014.

3. Revision of TIF Ordinance.

In July of 2013, I began to help draft the new TIF ordinance. I began the process of correcting legal descriptions and verifying previous TIF amendments. This process continued through much of the year until it culminated in the council passing the unified TIF ordinance.

4. Champions Ridge.

In the second half of 2013 we negotiated the contracts with the Fair for its purchase of the new fair location. This continued the efforts from the previous year in acquiring the property from the Smith estate.

5. Airport project.

During this fiscal year we began the process of securing appraisals for the properties to be acquired for the Airport Safety Zone project. The appraisals took much longer than expected. It wasn't until the first half of 2014 that we began having discussions with the property owners. I was able to meet with every such owner during this time. We only succeeded in signing two of the owners. We are still working with the other 4. We starting going through the process of using eminent domain, but were delayed by the lag of time it took to secure the tree assessment from the FAA.

6. Municipal Infractions.

I began working on the new ordinance in second half of 2013. There were some discussions during various study sessions. There were numerous changes made. It was finally ready for passage at the end of the fiscal year and ultimately passed in August.

7. Administrative litigation with Joe and Mike Jahnke regarding the revised dam operation permit with the DNR.

Back in 2012, Mike Jahnke began complaining that our new dam was causing more water to be retained in the pool, damaging his shoreline property. Mike did not object to the original permit of operation from the DNR that was granted to Waverly. He only complained and filed an appeal once we asked the DNR to modify the permit to establish maximum pool depths. Joe and Carol Jahnke also filed an appeal of the DNR decision to grant us the modified operations permit claiming property damage from water backup.

Joe's appeal was actually scheduled first. We did significant trial preparation with the DNR office in Des Moines. Joe's appeal was heard by an Administrative Law Judge in Des Moines in January of 2014. The ALJ found that the permit was properly granted and dismissed the appeal. Joe and Carol did not appeal this decision and it is final.

Mike Jahnke's appeal was heard in July of 2014 and the ALJ ruled against him also. Mike appealed to the Natural Resources Commission that oversees the DNR. They have yet to schedule a hearing before that body.

8. Dry Run Project acquisitions.

During the second half of 2013 I began the process of acquiring property for the Dry Run Project. The first transaction was to acquire the old school property. I met with members of the school board and the superintendent to negotiate a purchase of this property without an auction. Later during the fiscal year I began negotiating with landowners regarding purchasing those properties that had to be acquired for the project. Public Services had informational meetings and I met with and talked with various property owners regarding our purchases. By the summer of 2014 we began securing purchase agreements with the owners.

9. Council Meetings.

During the fiscal year, I attended all of the scheduled council meetings (I think). I also attended various other meetings regarding city matters.

10. Waverly Homes conversion to Section 8.

During the first half of 2014 I helped the Waverly Homes project to convert their project to a Section 8 housing project. This allows this project to receive federal funds for repairs and updates. This project is overseen by the Waverly Housing Commission. It is considered a low rent housing project of the City of Waverly. Some of my time was billed to the Agency through by my firm. Much of the work was done without compensation in my role as City attorney.

11. Prosecutions of simple misdemeanors.

During the fiscal year, I prosecuted city misdemeanor charges. I prosecuted 28 cases that were scheduled for trial throughout the year. I also resolved other cases that did not get scheduled.

**City of Waverly
City Attorney**

Organizational Chart

The City Attorney provides legal services to the City in any area assigned. The City Attorney is assisted by the office manager who acts as a legal assistant in various matters.

