

Who's the Client?

Do elected officials control the city's powerful law firm?

The City of Eugene employs a private law firm, Harrang Long Gary Rudnick, to do almost all its legal work.

The firm's legal opinions often have a powerful impact on city policy, law and taxpayer money. But just whom does that firm work for?

The issue came up last year when the city manager and elected mayor and council engaged in a power struggle over who would have authority over the hiring and supervision of the new independent police auditor's staff.

The city attorney issued an opinion siding with the city manager's assertion that the manager controlled the auditor's staff. The manager had opposed the creation of an independent auditor, but the council voted for it, and voters passed a charter amendment creating an independent auditor function appointed by the council.

After receiving a contrary recommendation from an outside attorney regarding the staff issue, the council disagreed with the manager and city attorney's interpretation and directed that the auditor hire and direct her staff independently.

But even after the council ruled on the issue, the city attorney issued an opinion con-

trary to the city. Bettman asked, "If the firm has a huge client like Hynix, how much are they going to want to" go against that client's interests in representing the city on a different matter?

Klein said the firm must get waivers of potential conflicts from the city manager and its other clients. Klein said he doesn't think the council can overrule the manager on waivers or direct the manager to deny them.

Klein opined that the Eugene City Charter prohibits the council from firing his firm or directing the city manager to do so. The council could, however, fire or give a negative evaluation to a city manager who failed to fire the law firm.

Bettman questioned how the charter could allow the council to control the selection of development contractors for downtown projects while prohibiting council involvement in the selection of legal contractors.

"That's different," Klein said. He said he'd have to research a more detailed explanation, but argued that "the manager gets to choose the contractor in most circumstances."

Elected officials can get second legal opinions if they choose, Klein said. But if they wanted the city to pay for it, they would have to do it by majority vote directing the

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tradicting that policy decision, Councilor Bonny Bettman complained last December. "I see that as a major breach," she alleged. "The city attorneys represent the city manager and not the city as a whole because when those interests bifurcate, what the attorneys chose to do is represent the city manager and not the city as a whole."

In a long-delayed April 9 meeting, City Attorney Glenn Klein gave his legal opinion that there was nothing wrong with his earlier legal opinion.

Klein said and wrote to the council that in contradicting the council's adopted policy, he was acting as the city's legal advisor warning of legal liabilities in a confidential memo. If the council's adopted policy is challenged in court, Klein said he would act as the council's legal advocate in defending the policy.

Bettman praised the city attorney's expertise as "excellent" but questioned whether the advice given the council was always impartial. She pointed out that the firm has had many private clients including Hynix, Phillip Morris tobacco, PeaceHealth, *The Register-Guard* and Arlie development with interests

city manager. The manager would then select and hire a firm to do the opinion.

"I don't see much point in that," said Councilor Betty Taylor. "The city manager has already gotten the opinion he wants."

Klein wrote to the council that the attorney does not always side with the manager. He cited an incident a decade ago when then-manager Vicki Elmer was fired by the council with legal help from the city attorney.

Elmer had hired consultants who recommended the city save money and avoid potential conflicts of interest by hiring an attorney staffer rather than paying the private firm for the work.

In 2002 a citizen charter review committee and a council majority agreed that the city needed an in-house attorney. But a charter measure to affect the change failed at the polls.

The manager's control of the powerful city attorney has been "an overarching issue and a problem" for years without solution, Bettman said. Bettman said she'd like an in-house attorney, but on council, "We don't have the votes."

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