

**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda Date: January 18, 2011  
Reviewed by: BP

**SUBJECT:** Transition from an elected to an appointed City Attorney

**REPORT BY:** Beth Pollard, City Manager

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**STAFF RECOMMENDATION**

That the City Council appoint a Council subcommittee to work with staff to identify alternatives for a process to recruit and select an appointed City Attorney, and to develop some initial criteria and structure options, for Council discussion and direction.

**BACKGROUND**

Under the Albany City Charter, the City Attorney is the legal advisor of the City Council, and other City officials. S/he shall draft all ordinances, resolutions, contracts or other legal documents and shall perform such other legal services from time to time as the Council may require. S/he shall attend all meetings of the Council unless excused by the Council or the Mayor. In practice, the City Attorney position requires extensive knowledge of all aspects of municipal law, including land use, legislative procedures, general civil litigation, employment and labor law, public works, redevelopment, code enforcement, risk management, conflict of interest law, open meeting laws, and public records laws.

At the last Municipal Election, the voters of Albany approved Measure N, a modification to Albany City Charter, Section 3.01, to provide that the City Attorney be elected at the November 2, 2010 election to a one year term and that in December 2011, the City Attorney be appointed by the City Council.

**DISCUSSION**

To implement the will of the voters will require establishing a process and criteria for recruiting and selecting a new City Attorney, as well as determining what kind of structure the position will take. Staff is not aware of cities in recent times that have made a transition from an elected to an appointed City Attorney. However, there are many cities with experience in recruiting and appointing a new City Attorney upon which the City of Albany can draw for ideas and advice.

Since the City Council is the appointing authority, and given the first-time nature of the appointment, it is important for the Council to be actively involved in this transition. Staff recommends that the City Council appoint a two-member Council subcommittee to work

with staff on reviewing examples and experiences of other cities, as well as any other available and applicable advice, for developing process, criteria, structure, and related transition options for the Council as a whole to consider. Staff also recommends asking the incumbent City Attorney to provide advice about the nature of the position and factors to consider in making the appointment.

### **ANALYSIS**

There is a range of options on criteria and structure of the position for Council to review; these options include contracting or hiring; retainer, hourly, or a combination; and sole practitioner, large firm, or something in between. The subcommittee and staff would identify potential advantages and disadvantages of different approaches for Council consideration.

Staff recommends that the subcommittee make at least an initial report back to Council by the end of March.

### **SUSTAINABILITY IMPACT**

N/A

### **FINANCIAL IMPACT**

None from establishing a Council subcommittee. Staff time will be needed to augment the subcommittee's work.