

LEGAL DIVISION
Steven R. Schwab, City Attorney

The City Attorney has two primary responsibilities. First, he is the legal advisor to the City Council, the City Manager, Department Heads and employees on all matters relating to the City. During 2002, the Legal Department issued numerous legal opinions on all phases of the City's operation. Secondly, the City Attorney is responsible for all petty misdemeanor, ordinance, and misdemeanor violations occurring within the City of Albert Lea. The prosecution of those offenses in 2002 resulted in approximately \$109,863.88 of fines and costs being remitted to the City Treasury.

The civil workload during 2002 included many varied projects on behalf of the City. These projects included several leases for welcomes signs to the City of Albert Lea, several loan agreements for development within the City of Albert Lea, the purchase of additional property for development by the City of Albert Lea, and commencement of condemnation on additional property that the City needed. The City Attorney's Office was also involved in a human rights claim against the City that has not yet been resolved. The City was also involved with the sale of numerous lots that it had acquired through tax forfeiture or other means. The City Attorney's Office handled all of those closings.

In 2002, there was a very slight increase in the number of DWI arrests being handled by the City Attorney. The total cases handled in 2002 were 90 misdemeanor cases, which was a slight increase from the prior year. However, there were many cases involving illegal consumption while operating a motor vehicle. This offense applies to individuals 18 to 20 years of age who are operating a motor vehicle after having consumed any amount of alcohol. This provision and offense carries with it a license revocation and suspension and, as such, is generally litigated by defense counsel because of civil and criminal penalties.

During 2002, the Albert Lea Police Department was very aggressive in having compliance checks for both tobacco and alcohol in the City of Albert Lea. There were multiple checks done and, as a result, individuals were prosecuted for the illegal sale of tobacco and alcohol in the City of Albert Lea. The City Attorney's Office gets involved in the criminal charges with regards to tobacco and also the civil penalties for both license holders of tobacco and alcohol. This process includes negotiating civil penalties and/or closings as a consequence of the illegal sales. Given the number of violations that we see in these areas, we are proposing new standard penalties to be adopted by the Council. That has not yet been completed by the end of 2002.

As in past years, 2002 was a busy year in the drafting of formal criminal complaints. The Legal Department drafted a total of 594 total complaints which included 293 bad checks complaints and the balance being comprised of miscellaneous complaints covering charges such as DUI, assault, school bus stop arm violations, theft, and numerous other traffic offenses. The Legal Department received and reviewed approximately 1,047 police reports. It should be noted that in many of those reports the police officers did not issue tickets, or citations, and the matter would be referred to the City Attorney for the drafting of formal criminal complaints.

The City, in 2002, continued its aggressive stance with regards to dilapidated property in the City of Albert Lea. At any given time the City Attorney's Office is pursuing three or four property owners in an effort to require them to either demolish or repair the property. The City Attorney's Office would draft an agreement which would allow the property owner to consent to the City to demolishing the property and assessing the cost to the lot. The City Attorney's Office has taken those that are contested to the Albert Lea City Council and subsequently to District Court. It is believed that this is going to be an ongoing and an ever-increasing part of the City Attorney's responsibility. The City Attorney's Office works closely with the Engineer's Office in obtaining estimates for the demolition and following up to make sure that the demolition is done and the costs are properly assessed to the lot.

In addition to being the attorney for the City of Albert Lea, the City Attorney is responsible for providing legal advice to the Albert Lea Housing Authority and the Albert Lea Port Authority. During 2002, the Port Authority was involved in substantial economic development in the City of Albert Lea and the City

Attorney's Office was involved in drafting agreements, leases, and also doing some collection work on behalf of the Port Authority for non-performing loans. Given the economic downturn in 2002, there were loans in which the City Attorney's Office was involved in doing collection work. It should be noted that the Housing Authority is no longer part of the City and, as such, the City Attorney's Office will probably not be involved in the future with any further issues involving landlord/tenant law for the Housing Authority.

As usual, 2002 was a busy year in the handling of certain civil forfeitures. These forfeitures relate to vehicles that are being forfeited to the City of Albert Lea as a result of a DUI charge. At any given time the City Attorney's Office has several such forfeitures pending. Much time and effort was spent on forfeiting these vehicles to the City of Albert Lea. Because of a change in the law, a portion of the proceeds are now directed to the City Attorney's Office for prosecution purposes. Those proceeds have now been used for the training of the Crime Victim Witness Coordinator position. This individual assists victims of crime occurring in Freeborn County. We have allocated and have used some of the forfeiture money to pay for training and equipment for this individual to assist her in her position. It is anticipated that forfeitures will continue to be a large part of the Legal department's workload.

Lawsuits involving the City of Albert Lea are generally handled by the League of Minnesota Cities Insurance Trust. However, during the year 2002, the City Attorney's Office got involved with several minor lawsuits that were filed in Conciliation Court in Freeborn County. Some of those lawsuits relate to individuals who are attempting to stop the forfeiture process referred to above, other lawsuits involved individuals suing the City because of no sewer hookup, and there were several product liability claims in which the City was involved for items being purchased by the City. The City Attorney's Office also works as a contact person with regards to those lawsuits handled by the League of Minnesota Insurance Trust.

The primary civil matter handled by the City Attorney's Office in 2002 was the Farmland matter. The City commenced action to have the plant demolished and this was immediately contested by the insurance companies for Farmland. In addition, Farmland also filed bankruptcy during 2002, which complicated the matter. Both the City Attorney and the City Manager were involved extensively in working with Farmland, its insurance companies, and the bankruptcy court which finally resulted in an agreement which allowed the City to acquire title to the property and use some insurance proceeds for the demolition. As we end 2002, the plant is slowly being demolished and it is anticipated that there will probably be no more civil litigation with regards to the current owners. The City, however, is still pursuing environmental claims against prior owners' insurance companies and that will be an ongoing matter.

A major change which occurred in the City Attorney's in 2002 was the retirement of Secretary Pat Johnson. Pat had served in this position for many years and was invaluable in her service to the Legal Department. Pat Johnson performed numerous activities for the City Attorney other than word processing. She drafted many of the complaints and was a great help in processing the large amount of paperwork that the City Attorney's Office handles each and every year.

Lastly, in addition to the work referred to above, the Legal Department was involved in some community activities for the benefit of the City. These activities included serving on the Tenth District Bar Association Ethics Committee to handle complaints against attorneys. The City Attorney also worked closely with the Crime Victims' Crisis Center and is currently attending monthly meetings as part of the Family Violence Focus Group. The City Attorney's Office also routinely handles training with regards to the Crime Victims' Crisis Center and the Women's Resource Center. This training is very important since it allows the proper filing of Orders for Protection and Harassment Restraining Orders subsequently resulting in easier prosecutions for the City of Albert Lea.