

LEGAL DIVISION
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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 2005, the Legal Department issued numerous legal opinions on all phases of the City's operation. Secondly, the City Attorney's Office is responsible for all petty misdemeanor, ordinance, and misdemeanor violations occurring within the City of Albert Lea. The prosecution of those offenses in 2005 resulted in approximately \$88,081.00 of fines and costs being remitted to the City Treasury. This amount is an increase from the prior year of approximately \$14,000. Individuals in court that cannot afford to pay fines and forfeits to the City are still allowed to work on the Sentence to Service crew. It is difficult to calculate the actual benefit to the City as a result of all of the work performed by the STS crew. The STS crew has actually done work at City Hall.

The civil workload during 2005 included many varied projects on behalf of the City. These projects included drafting and reviewing a lease for the Convention and Visitors Bureau, drafting an amendment to the Convention and Visitors Bureau contract, working with the Port Authority on the purchase of some property, drafting a bike trail easement, and drafting a new lease for the credit union. In addition, the City Attorney's Office was involved in drafting a new policy regarding the use of meeting rooms at City Hall and a travel policy for elected officials, as required by the legislature. In addition, there were several small civil lawsuits in Conciliation Court that were handled by the City Attorney's Office. The City Attorney's Office was also involved in the sale of several lots that the City had acquired through tax forfeiture or other means.

In 2005, there was a slight decrease in the number of DUI arrests being handled by the City Attorney. The total DUI cases handled in 2005 was 70 such cases. This decrease represents a trend with regards to DUI arrests. In 2002 there were 91 such arrests, in 2003 there were 82 such arrests, in 2004 there were 77 such arrests, and in 2005 there were 70 arrests, as previously indicated. This appears to represent a change in peoples' attitudes regarding drinking and driving. It will be interesting to see whether or not the number of DUI arrests increases or not since there was a change in the law during 2005 which lowered the legal blood alcohol concentration to .08. It is believed that this will result in some additional cases for the City Attorney's Office. Even though there was a decrease in the number of DUI arrests there was still a large number of 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. The end result is that some of these cases sometimes take more time and effort than a DUI case.

During 2005, the Albert Lea Police Department was very aggressive in performing 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. That process has become easier since the Albert Lea City Council has adopted a policy regarding license revocations and the penalties for the illegal sale of alcohol. By providing standard penalties the license holders know what the penalty will be and, as such, they will not have to be negotiated by the City Attorney's Office. In addition, the City Council adopted a Best Practices Program for alcohol compliance which allows a business to obtain reduced penalties for such violations if they agree to train their employees and take other steps to avoid this type of violation. The Best Practices Program appears to have been fairly successful. It should be noted that all of the money obtained from civil penalties due to compliance check failures is remitted to the City of Albert Lea to help cover the costs of the checks.

As in prior years, 2005 was a busy year in the drafting of formal criminal complaints. The Legal Department drafted a total of 285 formal complaints. This was a substantial increase from the prior year of 222 formal complaints. Those complaints included miscellaneous charges such as DUI, assault, school bus stop arm violations, theft, and numerous other traffic offenses. During 2005, the City Attorney's Office received and reviewed approximately 1,886 police reports. This, again, was a substantial increase over the prior year of

1,464 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 simply be referred to the City Attorney for the drafting of formal criminal complaints.

The City, in 2005, 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 several property owners in an effort to require them to either demolish or repair the property. The City Attorney's office would either draft an agreement which would allow the property owner to consent to the City demolishing the property and assessing the cost to the lot, or negotiating for the individual to demolish the property within a certain time period. The City Attorney's office has taken those cases 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 and the Fire and Inspection Department in proceeding with the demolition of these dilapidated structures. A change that occurred in 2005 is that the City has now developed a list of such properties which is updated and provided to the Council with the status of the action taken against each of the property owners.

An additional function of the City Attorney's office is the reviser of ordinances. This involves working closely with the City Clerk's office in the drafting of new city ordinances. During 2005, the City looked at several new ordinances. The City did, in fact, adopt a methamphetamine ordinance. The State of Minnesota, however, subsequently adopted its own ordinance which superseded the City ordinance. The City is also looking at adopting an automated pawn ordinance, a new ordinance for the issue of controlling tall weeds and grass, and a false alarm ordinance. These ordinances have been drafted, but not yet adopted by the City Council.

As usual, 2005 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. The funds obtained from these forfeitures are used for several purposes including prosecution purposes for the City of Albert Lea. It is anticipated that these forfeitures will continue to be a large part of the Legal Department's workload.

There were two important changes with regards to the handling of certain criminal cases in the City Attorney's Office in 2005. First, the City Attorney's Office became involved in the ZAP (Zero Adult Provider) program. This program, which is funded by the State of Minnesota, involves prosecutors, law enforcement, and the court system, working together for a more dedicated effort in prosecuting illegal consumption violations as well as prosecuting the providers of alcohol to underage individuals. This program is a huge success resulting in better enforcement of the underage drinking laws and making those individuals who provide such alcohol accountable in District Court. The program did result in a substantial increase in the number of these types of cases. A second change that occurred in 2005 is that the City Attorney's Office was requested by Human Services to take a more involved approach with regards to domestic assault involving children. Rather than proceeding with a simple CHIPS petition, the City Attorney's Office now reviews cases involving domestic assault involving children as victims. Obviously these cases are difficult and time-consuming but appear to be well worth the time and effort spent on them.

A large amount of the City Attorney's time is spent in District Court. During 2005, the City Attorney handled over 356 scheduled court trials. That number does not include sentencings, orders to show cause hearings, jury trials, or arraignments. It is not uncommon for the City Attorney to be in court four or five (4 or 5) times per week. One of the changes made in 2005 was the use of settlement conferences in criminal cases. Instead of scheduling a matter directly for a court trial they are now set for a settlement conference on Friday afternoons. Those settlement conferences involve the City Attorney meeting with the defendants and the public defenders to try and resolve cases with a plea. At this point, those settlement conferences appear to be highly successful resulting in a large number of cases being resolved prior to trial. This process should save the City a large amount of overtime with regards to the police officers involved. It should also reduce the number of court trials and allow more time in court for the judges to deal with other matters.

In addition to the civil workload referred to previously, there was some work done by the City Attorney's Office involving legal opinions and civil files. Those included working with the City Manager and the Finance Director on the allocation of discretionary funds by the Council. Such funds cannot be disbursed unless they meet a public purpose requirement. In addition, the City Attorney was involved in providing legal advice and opinions to the Charter Commission on some proposed changes to the Charter. Lastly, the City Attorney was involved in the start of the new runway project at the airport. This will involve acquiring property and doing title work for the acquisition of property for a new runway.

In 2004 the City hired a new Human Resources Director. As a result of that hiring there were many issues that the City Attorney got involved with as far as personnel issues in 2005. The Human Resources Director was asked to provide information and opinions on things such as overtime, military leave, and employee discipline. The City Attorney works closely with the Human Resources Director in providing legal opinions on these personnel issues as well as a variety of other personnel issues that arose in 2005.

One of the major changes that occurred in 2005 was the computerization of the City Attorney's Office. With the assistance of the City Attorney's legal assistant the handling of much of the paperwork is now done electronically. For example, officers are now notified about court trials and other court appearances via e-mail. This has increased the efficiency of the City Attorney's Office and has enabled it to handle a larger case load given the assistance of the computer. Another change that occurred in the City Attorney's Office in 2005 was the implementation of a law bulletin. This bulletin was handed out to Department Heads and other City employees' on important issues involving their departments and cases that may affect issues in their departments. It is hoped and believed that the City Attorney's Office will issue such a bulletin, or newspaper, regularly to allow Department Heads to keep up with the current state of the law.

The City Attorney's Office was asked to draft and deal with new Rules of Decorum for the City Council. The City Attorney's Office and the City Manager were involved in the drafting of these proposed rules. They will be adopted in 2006. The purpose of the new rules is to provide a balance between allowing the public to express their opinions while still allowing the Council to maintain order, which is necessary to conduct business.

2005 can be summarized as a year of many challenges. There were numerous changes in Department Heads and staff at City Hall. As a result, the Legal Department was asked to provide far more legal opinions and assistance on various matters. Obviously, new Department Heads are not familiar with some of the laws and, as such, the City Attorney is required to provide more guidance and opinion. While criminal prosecution still represents the bulk of the work done by the City Attorney, the civil workload has increased quite dramatically and will probably continue to do so given the change in city staff.