

City Attorney Evaluation 2017
Organizational Chart, Work Output, Resource Management
8/1/2016 – 7/31/2017

GOAL #1.

Provide competent, timely, and ethical legal advice and counsel.

(Data found on attached Exhibit B – Additional Supporting Information)

Objective 1A

The City Attorney's office shall provide competent, timely, and ethical legal services.

(Data found on electronic on-line surveys sent to Commissioners and Senior Staff)

Objective 1B

Continue to update legal knowledge through legal seminars as well as continuing surveys of changes in law through other sources.

(Data found on attached Exhibit A – Office Statistical Info/Outputs)

GOAL #2.

Advise and educate the City Commission, City officials, City Administration, City Boards/Committees, and others on legal and ethical issues and other training matters.

(Data found on attached Exhibit B – Additional Supporting Information)

Objective 2A

An attorney from the City Attorney's Office shall attend all meetings of, and advise, the City Commission, the Housing Board of Appeals, Planning Commission, Zoning Board of Appeals, Transit Local Advisory Council, Transit Local Coordinating Committee, the Historic District Commission, the Election Commission, as well as other boards, councils, and commissions upon request.

(Data found on attached Exhibit A – Office Statistical Info/Outputs)

Objective 2B

The City Attorney's office will seek input as to legal and/or other staff training that might be needed and work with all Departments to make sure that legal issues are covered in staff's anticipated training schedule as requested.

(Data found on attached Exhibit A – Office Statistical Info/Outputs)

GOAL #3

The City Attorney's office will support City and Commission goals.

(Data found on attached Exhibit B – Additional Supporting Information)

Objective 3A

The City Attorney's Office will have internal communication both within the City Attorney's Office and with the larger City Organization in order for the City to provide quality services to our citizens and fellow workers.

(Data found on attached Exhibit A – Office Statistical Info/Outputs)

GOAL #4

The City Attorney will organize the staff and Resources to Achieve the Most Effective Efficient Level of Service

Objectives 4A - 4E

Training and Cross Training; Budget; Workload; Supervision; and Succession Planning.

I have been the City Attorney since June 1, 2013, initially on an interim basis and then entered into a contract as City Attorney beginning October 15, 2013. Although I am the supervising attorney, because of the number of staff attorneys we have as compared to the workload, I also have a workload of files and projects I handle. I am the attorney who primarily drafts and reviews the numerous contracts and leases handled by our office each year; undertake ordinance reviews and revisions; assist in policy review, development and drafting; handle all City Commission assignments and nearly all Airport, Clerk's office, Finance Department, Human Resources, Police Department, Transit Department, and City Manager's office issues and assignments. I also actively assist in the litigation cases. I have been a licensed attorney in Michigan for nearly twenty-one years. I have assisted with several policy revisions this year, including the Acceptable Use Policy headed up by Chuck Norton, which was an in-depth overhaul.

Saura "Sunny" Sahu, has been with our office since January 4, 2016. Sunny has been a licensed attorney in Michigan for nearly eleven years. He is also licensed to practice law in California, where he practiced for nearly five years before becoming licensed in Michigan. Sunny is Deputy City Attorney – Civil Litigation for our office, and head of the civil litigation caseload, which has been very active this year. Because of this, I have pulled Ian and Marcel from some of their regular duties to help with some aspects of these cases, as well as having Marcel conduct and defend several depositions. I have also worked much more in-depth on the litigation cases, including preparing witnesses for testimony and significant work on the summary judgment motion in the successful Brown case involving the shooting of two dogs, for which we received a dismissal. This case was also appealed to the 6th Circuit Court of Appeals in Ohio, adding to the workload, but which decision was upheld. Sunny also handles issues arising from Waste Water, which included a tremendous amount of time on the new multi-jurisdictional wastewater agreement that was approved in December. He also assists with some policy review.

Marcel Stoetzel was hired as an Assistant City Attorney for Battle Creek since July of 2012. He was promoted to the position I created last year of Deputy City Attorney for Administrative Services, the position which he currently holds. Among other matters, Marcel handles all of the Tax Tribunal and Bankruptcy cases for the City. He works very closely with our assessor, Steve Hudson, and has really stepped up his expertise in the handling of our Tax Tribunal cases. We had two complex Kellogg Tax appeals this year, for which we decided to hire outside counsel for our representation. Marcel worked closely with outside counsel and assisted where he could to help keep costs down. This was the first case in three years where we had to hire outside counsel for a tax appeal. Steve continues to be very pleased with Marcel's work. Marcel is our Systems Administrator for the SunGard Prosecution module software. Marcel is generally the "go to" person for staff in the income tax, utilities and water billing departments. Marcel is also the immediate supervisor to the prosecution staff of Ian Wright and Deanna Perry. Marcel's big project this year was updating the Animal Ordinance. He put in a great deal of time with

community conversations and workshops on this topic, which we were finally able to adopt as ordinance amendments.

Marcel has been a licensed attorney in Michigan for fourteen years. In addition, Marcel came to us with a great deal of experience handling bankruptcy cases in private practice. This helped us to fill a large gap in our office, allowing us to eliminate referring bankruptcy cases to outside counsel. Marcel is also our back-up attorney for the prosecution office, since he also had a lot of experience in private practice defending criminal cases. Marcel also handles cell tower leases and negotiations. He has been successful in arguing and bringing in additional and increased lease payments to the City, including a recent resolution of a dispute resulting in an agreement to pay the City \$54,667 for back tower space rent in a lump sum. This agreement is on the agenda for Tuesday's commission meeting.

Ian Wright joined the City in 2009 and serves as a Prosecutor/Assistant City Attorney, which has been his title since January of 2012. Ian prosecutes all criminal ordinance violations, code compliance cases, forfeiture cases for PD and income tax prosecution. Ian stepped up to be willing to also take on prosecution of Bedford Township ordinance prosecution cases under the police services contract saving the City approximately \$8,000 per year in what we previously paid to outside counsel selected by Bedford Township for prosecuting. Since moving to our office in City Hall, Ian has provided some assistance on discovery in civil litigation cases and has enjoyed some variation in his usual work assignments. Ian has been a licensed attorney in Michigan for nearly seventeen years.

We have two support staff employees: Deanna Perry serves as the Executive Court Secretary where she has worked for approximately 19 years. Jennifer Peck has been with us for two years as of this past May. She came with five years of experience as a legal secretary, followed by eight years as an administrative manager in Broward County, Florida. She continues to provide invaluable assistance to our office with great initiative and vision for organization. She was instrumental in assisting with a smooth transition of the office reorganization and the conversion to electronic files on BS & A for code compliance cases last year, and this year is working to bring more efficiency and tracking to the forfeiture cases. She has been a great assistance with discovery in our litigation cases to the point that I have had her sit in on depositions to assist.

Our transition of the prosecution staff to City Hall has resulted in cost savings and we all agree it has been a positive change. After the initial adjustment process, we all believe it has provided the assistance both Deanna and Jennie need as back-up to one another while the other takes vacation time. All attorneys find the consolidation to have been beneficial to assist one another when a matter could use another legal mind to collaborate.

With these hires and appointments, we have at least one primary and one secondary attorney in nearly all areas covered by the City Attorney's office, with the exception of Bankruptcy and Tax Tribunal cases. Both of these areas are too specialized to invest in that additional training when considering the resources available to our office and the number of attorneys on staff, and are handled exclusively by Marcel. These assignments provide for both cross-training and succession planning. Collectively, the four attorneys bring more than sixty-five years of legal experience to the City Attorney's office.

CITY ATTORNEY
DEPUTY CITY ATTORNEY – CIVIL LITIGATION
DEPUTY CITY ATTORNEY – ADMINISTRATIVE SERVICES
ASSISTANT CITY ATTORNEY/PROSECUTION
LEGAL SECRETARY EXECUTIVE COURT SECRETARY

Saura Sahu Deputy City Attorney – Civil Litigation

Acts as City Attorney in City Attorney's absence.

Assignments:

Litigation - Civil, both for and against the City
Contract review for Departments working with
Works with the following Departments:
City Administration - some matters as assigned by City Attorney
W.K. Kellogg Airport - Advice as needed related to environmental issues.
Utilities Water & Sewer Issues – MDEQ and other environmental
issues. Sewer and water ordinance revisions. Intergovernmental agreement
for sewer service.
Constitutional issues from all departments
Police Department - Advice on policy, law, training secondary to Ian
Social Media issues

Marcel Stoetzel Deputy City Attorney – Administrative Services

Acts in the Deputy City Attorney for Civil Litigation's place when he is not
available. Acts in the City Attorney's place when both the Deputy City Attorney for
Civil Litigation and City Attorney not available.

Assignments:

Contract review related to Departments working with:
Real Estate Matters
Some Litigation - Civil, both for and against the City
Ordinance Prosecution - criminal, civil infraction & municipal infraction
Works on matters for the following Departments:
Administration - some matters as assigned by City Attorney
Assessing - General advice and representation in Tax Tribunal Matters
Bankruptcy cases where the City is a creditor
Neighborhood Services - Code Compliance, Zoning Issues, Housing Code
Prosecutions in District Court.
Water Department – Billing and Services issues
Police Department – criminal and civil infraction issues; Advice on policy,
law, and training.
Planning - Assist in legal advice for Planning Comm. & Zoning Board of
Appeal
Income Tax
Attends and provides legal advice to: ZBA, Planning Commission, Historic
District Commission, Transit's LAC and LCC Committees and Housing
Board of Appeals as needed.

Cell Tower Lease – Negotiations, enforcement, lease drafting and revisions and disputes.

Office Supervising Administrator of new SunGard Prosecution Module.

Ian Wright Assistant City Attorney/Prosecutor

Prosecutes all types of City Ordinance violations - criminal, civil infractions, municipal civil infractions, as well as Bedford Township.

Gives advice to Police Department on policy, law, prosecution of Ordinance violations and training.

Drug Forfeiture Cases for Police Department.

Income Tax prosecutions.

Prepares memorandums of law and ordinance amendments upon request.

Objective 4B - Budget. The City Attorney will be mindful of the departmental budget allocations approved by the City Commission and make best efforts to remain within that budget.

In the last two budget years where I have served as City Attorney, I have worked hard to keep within the budget approved by the City Commission and have been successful. The following is a summary of the budget performance for our department:

2016-2017 – We were unfortunately over budget this year by \$19,844.50 (102% of budget). Our retirement cost was \$19,092.12 over; Insurance was \$7,022.41 over; and unemployment and worker's compensation were \$6.77 over. Each of these areas are budgeted by finance and prepopulated. For those areas over which we have control, we were \$5,316.80 under budget.

2015-2016 - Under budget by \$64,240.90 (93% of budget) Our office was fully staffed for this time period.

2014-2015 – Under budget by \$41,783.72 (95% of budget) Our office was fully staffed for this time period.

2013-2014 – Under budget by \$124,277.99 (86% of budget) Our office was short-staffed by one attorney for six months of this year.

City Attorney's Office Budget prior to my becoming City Attorney:

2012-2013 – Over budget by \$30,505.98 (104% of budget) Our office was fully staffed for this time period.

2011-2012 – Over budget by \$6,660.83 (101% of budget) Our office was short-staffed by one attorney for nearly seven months of this time period.

Having run my own private law practice for approximately thirteen years, I have always been mindful of the budget. I ask my support staff to comparative shop and seek out the best prices for office supplies. Marcel's willingness to handle more complex Michigan Tax Tribunal cases and all bankruptcy cases has also had a great impact in our budget.

Although most outside counsel invoices are paid from the Risk Management budget and thus not reflective in our budget, I thoroughly review each invoice submitted by outside counsel.