

# OPINION

GUEST VIEWPOINT

## Outside lawyers have served city well

BY MIKE GLEASON, JIM JOHNSON  
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The Eugene city manager has announced that he will create an in-house law department on July 1, 2009.

As The Register-Guard's March 27 editorial correctly notes, it is the city manager's prerogative to decide how to structure the city organization. None of us is a part of the city organization. We are in no position to second-guess the manager's decision. We do not write to criticize but rather to explain why in our combined 24 years as Eugene city manager we made a different choice.

Each of us has experience managing a government organization with an in-house attorney and using outside legal counsel exclusively. Collectively, we have worked in local governments for more than 100 years. Like every Eugene city manager since 1971, we chose to contract with the law firm of Harrang Long Gary Rudnick P.C. to perform substantially all of the city's legal work. Here's why:

**Quality:** Harrang Long has assembled and maintained one of the finest collections of government law experts in the country. Virtually every public body in Oregon, including the state, has engaged the firm to handle some of the most complex problems they

have faced. From reform of the Public Employees Retirement System to tax limitations to land use regulation, Harrang Long is a leader in solving the tough issues. Eugene has benefited immensely from its 37-year relationship with the firm. We are glad to see that, while establishing an in-house legal department, the city manager also has secured an extension of the city's contract with the firm. No in-house operation could replicate the firm's experience and expertise. The city needs to maintain ready access to the firm's resources.

**Cost:** The city manager hopes to save \$200,000 in the next fiscal year by creating a legal department. That is a tall order: In tough economic times, the demand for legal services increases. More lawsuits are filed; more problems call for legal solutions. In 1998, an outside expert hired by City Manager Vicki Elmer prepared a detailed report concerning the city's legal services. That report concluded that "establishing an in-house city attorney's office is not necessarily cheaper than contracting out for legal services." The report suggested that the city could reduce legal costs without establishing a legal department.

The city's experience with prosecution services should be a cautionary tale. Until 2003, Harrang Long acted as the city prosecutor. In that year,

the city established an in-house prosecutor's office based upon an internal study that projected substantial savings by doing so. In the last year that Harrang Long provided the service, the city paid approximately \$500,000. The city's proposed prosecution budget for the next fiscal year is approximately \$700,000 — a 40 percent increase in just eight years. Government department budgets have a natural tendency to grow over time. Hiring an in-house attorney is not the pathway to controlling costs.

Although the cost of legal services is important, cost cannot be measured without considering the result achieved. The superb legal advice we received before a decision was made resulted in fewer lawsuits being filed against the city. And the city won lawsuits that it might have lost without the excellent representation that it always received.

**Conflicts of interest:** Concerns that Harrang Long has numerous conflicts of interest are unfounded. The city manager has said that he has not encountered problems with conflicts during his tenure and that was our experience as well. Occasional conflicts are inevitable, even for an in-house attorney. (What happens, for example, when the city assesses for improvements to the street on which the city attorney lives?) The ques-

tion is not whether conflicts occur, but whether they are handled appropriately when they do. The firm has always been fastidious in avoiding and dealing with conflicts, as the rules of the legal profession require. In 1999, two outside experts with impeccable credentials reviewed the firm's practices concerning conflicts and concluded that the firm had relatively few conflicts and that they were always handled properly.

A different sort of conflict can arise with an in-house attorney if he or she becomes involved in making policy rather than simply giving legal advice. Harrang Long has always taken great care to avoid taking positions on matters of policy. That is how it survived as city attorney for 37 years despite Eugene's frequently shifting political winds. An in-house attorney will have a natural tendency to mirror the policy views of the city manager who hired him or her and who decides on raises and working conditions. If the attorney's advice is shaded by political considerations, the attorney's — and ultimately the city's — credibility will be seriously impaired.

*Mike Gleason was city manager from 1981 to 1996, Jim Johnson from 1998 to 2002 and Dennis Taylor from 2002 to 2007.*