

**CITY ATTORNEY EVALUATION COMMITTEE MEETING**  
The Office of the Mayor in the Municipal Building

May 22, 2013  
11:30 a.m.

Agenda

Councilmember Anne Garcia Garland, Chair

- I. CALL MEETING TO ORDER
- II. APPROVAL OF APRIL 10, 2013 MINUTES
- III. REVIEW OF CITY ATTORNEY PROGRESS REPORT AND EVALUATION OF FY2012/213 GOALS AND OBJECTIVES OF THE CITY ATTORNEY/LLEGAL DEPARTMENT IN RELATION TO CITY ATTORNEY EVALUATION FORM
- IV. FINALIZE EVALUATION PROCESS AND SCHEDULE
- V. ADJOURNMENT

**MINUTES OF THE  
CITY ATTORNEY EVALUATION COMMITTEE MEETING**

APRIL 10, 2013

The regular meeting of the City Attorney Evaluation Committee convened at 11:30 p.m. on April 10, 2013 in the Mayor's Chambers of the Municipal Building.

Present: City Attorney Evaluation Committee  
Councilmember Anne Garcia Garland, Chair  
Councilmember David N. Mosby  
Councilmember Trina Baughn was absent.

Also Present: Diana R. Stanley, City Clerk  
Kenneth R. Krushenski, City Attorney

**DISTRIBUTION OF RELATED MATERIALS**

2012 City Attorney Evaluation Forms  
Amended City Attorney Agreement

The above information was presented as part of the April 10, 2013 City Attorney Evaluation Agenda Packet. The information was for informational purposes only.

**DISCUSSION AND DETERMINATION OF EVALUATION PROCESS AND SCHEDULE**

The committee discussed the evaluation forms used for FY2012, the results of those evaluations, and possible new ways to perform an evaluation for this fiscal year. No changes in the evaluation form or process were proposed.

It was determined that since the City Attorney received scores last fiscal year that indicated "Needs Improvement" that the City Attorney would, in addition to providing his annual progress report, include a summary of improvements for those areas. Additionally, the committee was also interested in the City Attorney providing information to the City Council on the benefits of the evaluation.

The committee also reviewed possible timelines for the evaluations process and deadlines. Tentatively, the committee is going to try to have a recommendation for City Council at the July City Council Meeting, and that the City Attorney would attempt to provide his progress report by May 17, 2013 with the Committee convening the week of May 20<sup>th</sup> to determine the remaining portions of the evaluation schedule.

**ADJOURNMENT**

The meeting adjourned at 12:55 p.m.

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Diana R. Stanley, City Clerk  
Secretary for City Attorney Evaluation Committee

APPROVED BY THE CITY ATTORNEY EVALUATION COMMITTEE  
(date)

\_\_\_\_\_  
Anne Garcia Garland, Chair  
City Attorney Evaluation Committee, 2013

RECEIVED

LEGAL DEPARTMENT MEMORANDUM  
13-16

2013 MAY 17 PM 4:12

OFFICE OF THE CITY CLERK

DATE: May 17, 2013

TO: City Attorney Evaluation Committee  
Council Member Anne Garcia Garland - Chair  
Council Member Trina Baughn  
Council Member David Mosby

Honorable Mayor and Members of City Council

FROM: Kenneth R. Krushenski, City Attorney

SUBJECT: PROGRESS REPORT AND EVALUATION OF FY 2012/2013 GOALS AND OBJECTIVES OF  
THE CITY ATTORNEY/LEGAL DEPARTMENT

**INTRODUCTION**

Pursuant to the City Attorney Evaluation Committee directive to submit a report and evaluation of the City Attorney and Legal Department Goals and Objectives for review by the Committee and City Council, I have prepared the following Report & Evaluation with the assistance of Tammy Dunn, Senior Staff Attorney. Some of the items listed as Goals and Objectives for FY13 carried over into FY14. Additionally, newly filed matters and new projects undertaken by City staff which required involvement of the City Attorney and Legal Department will continue as recognizable goals for FY13/FY14

**I. Goal: Provide City Staff with continuing education from the Legal Department in important areas of municipal law.**

**Objectives: A. To prepare a guideline on bidding procedures to guide City departments through the bid process.**

- The Guidelines were distributed with Legal Memorandum 07-65. The Legal Department continues to be available to assist city staff with questions concerning the bidding and contract process.
- During this reporting period, Senior Staff Attorney Tammy Dunn has advised that the Legal Department participated in the drafting of approximately 285 contracts/professional services agreements and prepared or assisted in the preparation and review of 36 bid packages, as well as 2 requests for proposals/qualifications. The Legal Department is currently in the process of completing contract renewals and annual order contracts, which are not included as part of the number reported above.

**B. To provide guidance and/or conduct training sessions for City Staff and City Boards and Commissions on important and timely legal issues.**

- The Legal Department participated in in-service training for the Oak Ridge Police Department at the request of the Chief of Police and provided training on (a) recently adopted parking ordinance as part of the Not in Our City initiatives, (b) proper citation completion, (c) accident reports, (d) juvenile offenses, and (e) updates to the City Code .
- The Legal Department provides assistance to the Community Development/Code Enforcement staff in prosecuting violations of the City's Property Maintenance Code which has resulted in City Court enforcement of fines and remediation of unfit structures.
- **Board of Building and Housing Code Appeals:** The City Attorney continues to attend hearings of the Board when requested to provide legal assistance on cases involving unfit structures.

The following cases have been taken by Matt Widner of the Code Enforcement Division before the Building and Housing Board for demolition over the last calendar year 2012 and part of 2013.

Address	Action Taken
121 Goucher Circle	Structure declared a nuisance. City purchased lot by CDBG and demolished structure and removed dead and dangerous tree. Lot is now vacant.
100 Pearl Road	Owner demolished carport and built a new cover (not finished) but no violation currently exists.
130-132 N. Jefferson Circle	Declared demolished and liens filed with County. Now a vacant lot.
214 Waltham Place	City purchased using Highland View fund, structure demolished and lot is now vacant. One dead tree had to be removed.  (continued next page with 120-122 Jarrett Lane)

	(continued from previous page)
120-122 Jarrett Lane	Declared unfit for human occupation and use. Posted and secure. TN Care lien on property. City has not reached an acquisition agreement with TN Care. Owners have given City permission to do what needs to be done. Environmental testing has been completed. Working toward abatement and demolition.

- o The Applewood Apartments are covered separately on pages 9 and 14, 15, and 16.

Note: There are also additional single-family dwelling units the Board and Staff have allowed extensions of time to repair.

- **Board of Zoning Appeals (BZA)**: The Legal Department provided legal memos to the Board but did not participate in contested hearings during the last year.
- **Parks and Recreation Board**: Provided Legal Memorandums, and advice to the Board on an as needed basis.
- **Trade Licensing Board**: As a result of citizen complaints, the Board held a Hearing for Pipe Wrench Plumbing on December 11, 2012. The ruling by the Board resulted in a suspension of their license for 30 days. The City Attorney participated in the Hearing as advisor to the Board.
- **Personnel Advisory Board (PAB)**: The City Attorney and Senior Staff Attorney participated in the following grievance hearing before the Board:

**Phillip Nall, Paul Nance, Cartel Webb and Robert Pitts**: On August 24, 2012 the PAB heard a grievance filed by the Plaintiffs, who are employed by the Oak Ridge Police Department, and ruled that the City Manager did not violate the Personnel Ordinance in his denial of the Plaintiffs request for a salary adjustment.

**Matthew Freshour**: This is a recently filed (May 7, 2013) appeal to the Board by Mr. Freshour who is contesting the City Manager's decision to terminate his employment with the City of Oak Ridge Fire Department. A hearing date has not been set.

- The Legal Department will be available to conduct training sessions on harassment issues for new summer employees of the City if requested.

- The Legal Department will be partnering with the Personnel Department to begin training sessions for all supervisors about harassment and discrimination, as well as any other topics requested by the departments. During this reporting period, the Legal Department participated in Harassment/Civility Training for the Police Department.
- The Legal Department has processed 31 training reimbursement agreements under the City's Training Reimbursement policy during this fiscal year. This policy went into effect October 2005. The goal of this policy is to ensure the City receives the benefit of the training, and in the event the employee leaves employment, that the City is compensated for its cost in training that individual. This policy has resulted in the City being reimbursed for travel costs from several employees who have left employment prior to the expiration of the required employment commitment timeframe
- The Legal Department is responsible for the City's Title VI compliance and is required to submit documentation annually to state agencies/departments to indicate the City's compliance with Title VI of the Civil Rights Act of 1964. No Title VI complaints have been filed with the City.

**C. To provide support and/or guidance and to act as the Staff Liaison to the Oak Ridge Beer Permit Board:**

- Senior Staff Attorney Tammy Dunn is Staff Liaison for the Legal Department to the Beer Board. The Legal Department processed approximately 28 beer permit applications and 32 manager approval applications.
- During the past year, the Beer Board held two (2) show cause hearings: Oak Ridge Revitalization Effort (failure to pay the required annual privilege tax) and Lincoln's Sports Grille (disturbance, public intoxication). Oak Ridge Revitalization Effort voluntarily surrendered their beer permit prior to the hearing. Lincoln's Sports Grille discussed a plan of action to prevent the same problems from occurring in the future, which plan was acceptable to the Board. No action was taken against the beer permit.
- Provided the Board with Memorandum No. 12-24 regarding training requirements for beer permit holders, per the Board's request at the April 9, 2012 meeting.
- Drafted updated permanent beer permit applications, special event beer permit applications, and manager applications for ease of understanding, to increase confidentiality of protected personal information of applicant's, and for compliance with state law. The Beer Board unanimously adopted the new forms at their February 11, 2013 meeting.
- Continues to provide administrative support to the Board through preparation of agendas, draft minutes, and website updates. The Legal Department serves as the initial contact for applicants to obtain information and applications. The Legal Department also

serves as official holder of beer permit files and maintains the list of active beer permit holders. The Legal Department also works with the Police Department for any enforcement or inspection actions.

**II. Goal: To insure that the City Code is current.**

**Objectives: A. To review the Code of Ordinances and update those sections that are antiquated or in conflict with existing laws.**

- Review and/or drafted Personnel Ordinance amendments on nepotism, layoffs, reorganization, severance package, injury leave, light duty, employee political activity, and addition of President's Day as city holiday. (Adopted by Ordinance No. 08-2012 and Ordinance No. 09-2012)
- Review/Draft updates to the following adopted codes: Fire Code, Electrical Code, Plumbing Code, Energy Conversation Code, Accessibility Code, Building Code, and Mechanical Code (Adopted by Ordinance Nos. 11-2012, 12-2012, 13-2012, 14-2012, 15-2012, 18-2012, 19-2012, and 20-2012)
- Draft updated solicitation ordinance with Electric Department/Business Office (Adopted by Ordinance No. 22-2012)
- Draft updated brown bagging ordinance with Police Department and Oak Ridge Beer Permit Board (Adopted by Ordinance No. 23-2012)
- **Ordinances and Resolutions:** The Legal Department prepared a total of 99 Resolutions and 23 New Ordinances.
- **Special Projects**

— ***Boards and Commissions:***

- All Boards and Commissions now operate on a new calendar year schedule for election purposes (see Ordinance 3-11 and Resolution 2-8-11). The second election was conducted by City Attorney and City Clerk and held on December 17, 2012. A total of 43 positions on the Boards and Commissions were filled by Council.

**B. To propose new ordinances to protect the City and its citizens when it becomes apparent that such new ordinances are necessary to the well-being and orderly function of City government.**

- **Administrative Hearing Officer** – Public Chapter 1128 adopted by the Tennessee Legislature in 2010 allows local governments to conduct administrative inspections and enforce code violations by using an administrative procedure rather than using the City Court process, which is limited to a \$50.00 fine. Under the law cities are required to adopt the Administrative Process by ordinance. Currently this Ordinance is pending but has not been presented to

the City Council for adoption. Funding for the position is currently under review.

- Land Bank – As part of the City Manager's "Not in our City" initiatives, the City Attorney with the assistance of MTAS and a Legal Department Intern developed Legislation which allows the City of Oak to adopt a Land Bank Program to address blighted and deteriorated housing in the City. Public Chapter 1096 established "the Tennessee Local Land Bank Pilot Program" and was signed by the Governor on May 21, 2012. The Pilot Program names Oak Ridge as the only Tennessee City which is permitted to adopt the "Land Bank" legislation

It is proposed that the Land Bank Corporation shall be chartered by the State of Tennessee as a non-profit § 501(c)(3) entity.

The State requires that the activities of the corporation be monitored by the State Comptroller's office for a period of three (3) years from the date the Corporation is created. No later than March 1<sup>st</sup> following the end of the 3<sup>rd</sup> year after the creation of the Corporation, the Comptroller shall file a report with the Governor's office and the Tennessee State and Local Government Committees of each House with recommendations concerning whether the PILOT project be continued, expanded, or discontinued.

- RedFlex - Red Light Cameras - Council approved Ordinance No. 13-08 which amended Title 15 by creating a new section 15-348, titled "Automated Enforcement," to establish a nonmoving traffic offense for traffic violations evidenced by automated camera enforcement systems.

NOTE: As a result of a decline in the number of appeals, there was only one Request for Hearing Session during this reporting period:

The following Requests for Hearing were prosecuted by the Legal Department in Oak Ridge City Court during this reporting period:

— December 6, 2012 82

A total of 554 appeals have been filed in City Court during the time the cameras have been in operation. The five year agreement between City of Oak Ridge and Redflex was executed on August 18, 2008. The Agreement provides that the contract can be renewed upon expiration which is calculated as of the date that the cameras were put in operation. According to City records, the City of Oak Ridge Electrical Department supplied power to activate the cameras on April 14, 2009.

**C. To Assist the Charter Commission/Committee When in Session**

- Charter Commission/Committee – Article III, Section 14 of the City Charter requires a Charter Review Committee to be elected by City Council, starting with July 2007 and every eight (8) years after that. The next Charter Review Committee is not scheduled to be elected until July 2015.

- It is anticipated that a change to Charter Article I, Section 9, "TIME OF TAKING OFFICE" will be proposed to Council to correct the problem created by the Article I, Section 2, Charter change of City Elections to the first Tuesday after the first Monday in November of even years.

This recommendation and change shall be presented to Council for consideration in advance of the upcoming November 2014 elections

**III. Goal: To enhance revenue by providing the City with additional sources of revenue through the use of the legal system.**

**Objectives: A. To re-establish the procedure for the collection of back property taxes and to implement this procedure by filing suits to collect back property taxes for prior tax years.**

- The Anderson County Delinquent Property Tax Sale was held on October 13, 2012. Legal Department Memo No. 12-68 dated December 14, 2012 informed Council that Chancellor Lantrip signed the Order in Case # 11CH2983 confirming the sale on October 23, 2012. For the 2013 tax sale, City of Oak Ridge Delinquent Taxes were forwarded to the Anderson County Back Tax Attorney on March 27, 2013. The 2013 Anderson County Delinquent Property Tax Case # 13CH5160 was filed April 15, 2013. Council was provided with the list of delinquent taxpayers with Legal Department Memorandum 13-14 dated April 3, 2013.

**B. To establish a procedure for collection of monetary damages due the City caused by the negligent acts or omissions of individuals against City property.**

- This procedure has been established and the Legal Department is available to assist the City staff in collection of delinquent accounts.

**C. To establish a procedure for collection of court costs and fines due the City.**

- The total amount collected for court costs and fines for the past year was not available at the time this report was prepared. It will be provided to Council as a separate memo.
- The \$50.00 fine limitation is still applicable to City Court cases. Any increase will require a Constitutional amendment.

**D. To continue to provide legal support to City Staff to enable the City to realize the economic benefits to be derived from the following projects:**

- Centennial Village Development, LLC/Centennial Village Apartments, LLC: At its December 16, 2008 meeting, Council passed Resolution 12-108-08 to approve a 50% 20 year tax abatement for Centennial Village Apartments. The project is financed by a construction loan to Centennial Village Apartments in

the amount of \$21,148,300.00 from Evanston Financial. The Project is now completed. A Final Certificate of Occupancy was issued August 19, 2011.

- The City Attorney has been involved with legal matters involving foreclosures with reference to the following Projects during the last year:

- Centennial Bluff, LLC –Chapter 11 Bankruptcy Foreclosure proceedings were instituted by one of the Project's Lenders Commercial Bank, Harrogate, TN. On July 26, 2012, the Bankruptcy Court approved an Order Modifying the Automatic Stay in Centennial's Chapter 11 case. The Court set a deadline for Centennial to obtain debtor-in-possession financing on or before September 28, 2012. If the financing was not obtained, Commercial Bank was authorized to proceed with its foreclosure action. As a result of Centennial's failure to obtain financing, the foreclosure sale of the above property was held on October 2, 2012 at the Anderson County Courthouse in Clinton.

Commercial Bank, Inc. purchased the property at the sale and is now the Owner. The selling price of the property is set out in the Substitute Trustee's Deed as being \$3,859,753.94. The Deed was recorded on October 4, 2012 in Book 1568, page 953 in the Anderson County Register of Deeds Office.

- Rarity Oaks/Oak Ridge Land Company – Foreclosure Sale was held by Jefferson Federal Bank on October 4, 2010, and Jefferson Federal Bank became owner of the property at the Foreclosure Sale. The Legal Department has had inquiries about the status of this property but nothing has changed since the date of the last report to Council.

- Rarity Ridge/Oak Ridge Land Company – Foreclosure Sale was held by RL Regi-TN Oak LLC on June 2, 2011. As a result of the sale RL Regi-TN Oak LLC owns the property. A total of \$848,986.56 in back taxes owed the City of Oak Ridge were collected from the owners on March 2, 2012.

- Horizon Center Development –On March 12, 2010, Horizon Center, LLC and the IDB entered into an agreement for the transfer of 476.17 m/l acres of land in the Horizon Center Park to the IDB for marketing and development purposes. Copies of all documents are available in the Legal Department for review. The following projects are now being developed at Horizon:

- RSI Land Sales Contract – The IDB and RSI entered into a Contract to purchase approximately 11.75 acres of Horizon Center Park. The sale closed on August 10, 2012. The purchase price was \$ 283,750.00. A State of Tennessee Department of Economic and Community Development Fast Track Grant for sewer line extension in the amount of \$248,765.00 approved on April 26, 2011. The sewer

project is complete. Construction on the RSI building should begin soon.

- Heritage Center Development (Speculative Building Project) The Speculative Building project referred to in prior reports is was completed and sold to 100 Heritage Center, LLC on March 8, 2011. The stated consideration for the transfer was \$1,443,000.00.
  - PILT Leases for the land and equipment were approved by the IDB in December 2011 and January 2012 and are reported on page 12, #7.

- Heritage Center Development (Additional Land Transfers for Re-Industrialization)

- Heritage Center LLC to Babcock Services, Inc. This land transfer was closed on June 6, 2012 for a purchase price of \$55,000.00.

Project facts for Babcock Services

New Jobs: 114 over three years

Average Wage: \$66,000 plus Benefits

Capital Investment: \$3.885 Million over three years

The State of Tennessee Department of Economic and Community Development awarded a Fast Track to the IDB for site improvements in October 2012 for the Babcock Project.

Babcock guaranteed all financial performance for the State Grant including all local match requirements.

Approximately \$318,700.00 was paid to the IDB for completion of this project by Babcock as reimbursement for the Grant.

- USEC/TDOT State Industrial Access Road/Boeing Interchange: The State Department of Transportation (TDOT) has advised the City of Oak Ridge that issues involving the potential downsizing of USEC have not had an impact on this State Project. TDOT is now in the construction phase of the projects with completion set for the end of June 2013.
- Scarboro/Habitat Development: There has been no change in this project since the last report.
- Highland View/Applewood Apartments: These cases have been appealed by Levitt, as owner/attorney for Applewood, to Anderson County Chancery Court and are reported on pages 15 and 16. The Final Order from City Court on Buildings 182, 184, and 186 was appealed by Levitt to Circuit Court and is reported on at pages 14 and 15. A Contract for the sale of the entire Applewood Apartment Complex was entered into between Levitt and John Huff of Huff Management Company, Inc., Opelika, Alabama in January 2013. The sale is pending as of this date.

- Economic Development Initiative – Not in our City: On November 14, 2011, Council approved Resolution 11-109-11 which adopted the City Manager’s proposed “Not in our City” conceptual Plan to address drugs, crimes, improve housing and make Oak Ridge a better place to live and invest. The Plan consists of the following initiatives:
  - Neighborhood Watch Program (NWP)
  - Cleanup Container Program
  - Top 5 List of Blighted Properties, 5 Most Improved
  - Policies and Ordinances
  - Community Development Housing Initiative
  - Administrative Hearing Officer
  - Land Bank Program
  - Residential Properties Utility Program

This will be an ongoing project with continuing Legal Department involvement and will be the subject of future reports.

As part of the “Not in our City” initiative, the Community Development Department has identified several properties meeting the criteria for acquisition by the City. They have been acquired by the City since the “Not in our City” initiative was approved by Council. They are listed below:

Address	Appraised Value	Closed	Sales Price
214 Waltham Place	\$25,000.00	5-29-12	\$19,473.00
121 Goucher Circle	\$15,000.00	6-18-12	\$15,094.22
112-114 Wade Lane	\$30,000.00	6-25-12	\$29,443.98
608 W. Outer Drive	\$12,000.00	7-06-12	\$11,624.54
175 Outer Drive (Donation)	\$63,000.00	10-18-12	\$ 0.00
110-112 Walnut Lane	\$35,000.00	11-07-12	\$20,236.38
114-116 Lawton Road	\$10,000.00	12-17-12	\$ 9,975.52
212-214 N. Illinois Rd	\$15,000.00	1-04-13	\$15,064.69
148 Hillside Road	\$11,000.00	3-28-13	\$11,053.70
134 Houston Avenue	\$32,000.00	4-18-13	\$32,177.12
<b>PENDING AS OF THIS REPORT</b>			
101 Decatur Road			
133 Johnson Road			
122-124 Lawton Road			
215 Waltham Place			
116 Jarrett Lane			

The following items have been identified by the City Attorney as carryover Goals to be added and reported on:

**A. State and Federal Legislation**

- Legislative Issues – Dr. Amy Fitzgerald prepared the 2013 State and Federal Agenda for legislative issues that affect the City of Oak Ridge.

The City Attorney provides input on legislative issues on an "as-needed" basis.

**B. Bill Nolan & Associates/The Ferguson Group:** At its meeting on June 11, 2012, the City renewed both the Professional Services Agreement with Bill Nolan & Associates of Oak Ridge and The Ferguson Group of Washington, D.C. Both consultants are required to submit regular activity reports to the Council. The Contracts are set to expire June 30, 2013, unless renewed.

**C. Oak Ridge Heritage Railroad Authority** - The City Attorney continues to provide legal support to the Authority and attend its Board of Director's meetings. The Annual Report was delivered to Council on November 5, 2012. It was announced that the Railroad has received approximately \$2,081,036.04 in allocations from the Tennessee Department of Transportation (TDOT) for Track and Bridge Rehabilitation since 2002.

In September 2009, Energy Solutions, LLC, a for-profit corporation, purchased the assets of Heritage Railroad Corporation, a non-profit corporation. Energy Solutions, LLC has committed to the State of Tennessee and City of Oak Ridge that they will be obligated to provide all financial and administrative assistance to the Authority.

- **Southern Appalachia Railroad Museum (SARM)**: On April 3, 2013 the City was notified by the President of SARM that, as a result of construction bids that came in over the amount projected for this Project, SARM was officially requesting that the TDOT grant be cancelled by the City of Oak Ridge and the funding be released back to the State. This has been done.
- **Rails to Trails**: On April 27, 2012 the City received notice from Tracye Baber, Doe Realty Specialist, that they recorded an Abrogation of Restrictive Covenant for the right to repurchase the rail line located in the City which is occupied by CSX. On March 4, 2013, the City received Notice from Attorney Louis Gitaver that CSX filed a Notice of Discontinuation of Service for the rail line. CSX "Rails to Trails" Manager Elizabeth Steel advised the City that the City will be required to submit an offer to obtain the rail line along with an appraisal and other documentation to support the City's request to obtain ownership of the line. This will be an on-going project that will require approval of Council.

**D. Industrial Development Board (IDB)** – The City Attorney as Legal Advisor to the IDB has been involved in document preparation, negotiations, and closings on various IDB projects.

- **The following projects have been closed and the PILT Lease Agreements are on file in the City Attorney's office:**

NO.	NAME	DATE/CLOSED	EXPIRATION DATE
1	IDB/PRO2SERV/IVH-LLC	CLOSED 5/30/07	EXPIRATION 3/31/2015
2	IDB/BRISTOL APTS/COWPERWOOD	CLOSED 4/24/06	EXPIRATION 12/31/2015

NO.	NAME	DATE/CLOSED	EXPIRATION DATE
3	IDB/KISSMAT/OAK RIDGE PARTNERS, LLC STAYBRIDGE SUITES	CLOSED 6/7/07	EXPIRATION 12/31/2016
4	IDB/NATIONAL FITNESS	CLOSED 1/1/08	EXPIRATION 12/31/2017
5	IDB/R&R/FLATWATER	CLOSED 1/1/08	EXPIRATION 12/31/2017
6	IDB/USEC	CLOSED 9/1/08	EXPIRATION 12/31/2017
7	OMEGA/HERITAGE, LLC 100 HERITAGE LLC	CLOSED 12/29/11	EXPIRATION 12/31/2018
8	IDB/CENTENNIAL VILLAGE	CLOSED 2/23/10	EXPIRATION 8/18/2031
9.	GUEST HOUSE ALEXANDER SENIOR LIVING, LLC	CLOSED 1/15/13	EXPIRATION 12/31/2023

The following projects are in the process of being terminated:

- A. IDB/Mullins Properties
- B. IDB/NUCSAFE

- Pending Projects

- Airport Study Project: City Council approved Resolution 7-7-71-09 at its July 20, 2009 meeting. The Resolution supported the efforts of CROET to bring a General Aviation Airport to City of Oak Ridge on land either owned by CROET, or to be transferred to CROET by DOE. On October 4, 2012, a presentation on the Airport was given by the Tennessee Aeronautics Commission which outlined a timeframe for construction and completion of the Project from 2017 to 2021. The Legal Department will provide assistance to this project on an "as-needed" basis.
- Protomet Phase II – PILOT: At its April 8, 2013 meeting by Resolution 4-26-2013 Council authorized the IDB to enter into a five year 100% Payment in Lieu of Tax Agreement with Protomet for its proposed Phase II expansion. The Company will continue to pay current taxes on the Phase I portion of the Company, which were approximately \$25,973.21 for last year. The documents are now being prepared for a closing date to be set this year.
- Appalachian Underwriters: On January 9, 2012, Council approved Resolution No. 1-4-12 for the purchase of alternate power equipment to improve electrical reliability at Jackson Plaza which is the headquarters for Appalachia n Underwriters (AU). Subsequent to this action the IDB entered into a Development Agreement with AU to facilitate the expansion of the Company's workforce at this location and add approximately 125 new employees. The Development Agreement was approved on February 28, 2012. The City of Oak Ridge Electric

Department installed the automatic switch gear on July 8, 2012 and this Project is completed.

- Oak Ridge City Center LLC/Arnsdorff Mall Project: Resolution #3-22-11, dated March 7, 2011 was approved by City Council. It effectively repealed former Council Resolution #12-133-03 and voided all tax abatements that were the subject of that December 1, 2003 Resolution.

Crosland Southeast announced in February 2013 that it signed a contract to purchase the Oak Ridge Mall from Oak Ridge City Center. The Company is currently in its "due diligence" phase prior to setting a closing date. The City Attorney provided the City Manager with copies of the Special Warranty Deeds for the Mall property which are recorded in the Anderson County Register of Deeds Office as follows:

- Crown American Properties, L.P. to Wal-Mart Business Trust dated June 8, 2000, recorded July 5, 2000, Book 1156, Page 379.
- Crown Investors Trust to Oak Ridge Center City, LLC dated June 12, 2003, recorded June 18, 2003, Book 1347, Page 3308.

These deeds contain various Restrictive Covenants that attach to any sale of the Mall property by the current owners unless the Restrictions are removed.

- **Economic Incentives:**

- TIF Review: The IDB's proposed revisions to the existing TIF policy and was reviewed and passed by Council on December 12, 2011 as Resolution 12-112-11.
- PILT Review: Council Resolution 10-99-10 dated October 12, 2010 approved the suggested revisions to the proposed Economic Development Incentives (PILOT) adjustments for use by the IDB as a guideline for tax abatements and payments in lieu of taxes for qualified entities in Oak Ridge for a three (3) year period to expire December 31, 2013.

**IV. Goal: To resolve by trial or settlement pending litigation in which the City is a party.**

**Objectives: A. To complete discovery, set for trial, and ultimately dispose of the following cases:**

- **Donna Barker and husband Mark Barker v. City of Oak Ridge and Freddie Haddix, Jr. - Anderson County Circuit Court #B1LA0279 – ORDER OF COMPROMISE & DISMISSAL**

- On August 2, 2011, the Plaintiff filed a claim against the City and City employee, Freddie Haddix, Jr. for personal injury and property damage.

- The Plaintiff, Donna Barker, claims damages in an amount of \$100,000.00 for personal injury; the Plaintiff, Mark Barker, claims damages in an amount of \$25,000.00 as spouse of Donna Barker; the Plaintiffs claim damages in the amount of \$15,000.00 for property damage to their vehicle.
- An Agreed Order of Compromise and Dismissal settling this case was entered on April 22, 2013.
- **The Estate of Rodney Eugene Harris/Patricia Harris v. City of Oak Ridge et al - Seventh Judicial District for the State of Tennessee Circuit Division - Case: B1LA0253 - Removed to Federal Court No. 3:11-CV385 –DISMISSED WITHOUT PREJUDICE**
  - A trial date was set by the Court for February 4, 2013; however, on November 16, 2012 the Plaintiff's attorney filed a Notice of Dismissal of this lawsuit without prejudice. The Plaintiff has one year from the filing of the Notice to re-file this suit.
- **Christina Targonski v. City of Oak Ridge – Civil Action #3-11-CV-269 in the U.S. District Court for Eastern District of Tennessee – DISMISSED WITHOUT PREJUDICE**
  - Plaintiff Christina Targonski, formerly employed as a Police Officer by the Oak Ridge Police Department, filed this Complaint against the City in Federal Court on June 14, 2011. This Complaint alleges the Plaintiff was forced out of her position on September 1, 2010 due to acts of harassment, retaliation and discrimination. Plaintiff claims compensatory damage in the amount of \$250,000.00 and punitive damages in an amount of \$1,000,000.00.
  - On July 18, 2012, the Court ruled in favor of the City on summary judgment and dismissed eleven (11) of the twelve (12) counts set forth in the Complaint. By the Court's Memorandum Opinion, only the hostile work environment claim was allowed to proceed to trial.
  - A Stipulation of Dismissal without Prejudice was filed by Plaintiff on February 8, 2013. The Plaintiff has one year from the filing of the Notice to re-file this suit.
- **City of Oak Ridge, Appellee v. Tammy Sandlin, Manager, Joseph Levitt, Jr., Owner of Applewood Apartments, Appellants – Anderson County Circuit Court – Case No. B1LA0085 – APPEAL PENDING**
  - On March 7, 2011, Joseph J. Levitt, Jr., owner and attorney for Applewood Apartments, filed an Appeal to Anderson County Circuit Court of a Final Order of Oak Ridge City Court which found Joseph Levitt, as owner of Applewood Apartments guilty

of 98 violations of the City Oak Ridge Property Maintenance Code.

- The Appeal seeks to reverse the Order of the City Court for those certain Applewood Apartment buildings located at 182, 184, and 186 Hillside Road. The Appeal is pending on the Court's non-jury docket.
- The City of Oak Ridge has filed various Discovery Motions. The Court ordered a re-inspection of the Buildings to verify whether or not Levitt has attempted to make required repairs of the code violations. The inspections were conducted on July 30-31, 2012. Results of the inspections were compiled by City staff and Corum Engineering and provided to Attorney Levitt.

- **Levitt, Joseph v. City of Oak Ridge and Denny Boss – Anderson County Chancery Court – Case No. 11CH2768 – REMANDED TO BOARD OF BUILDING AND HOUSING CODE APPEALS**

- The City was awarded Summary Judgment by Chancellor Lantrip and the Plaintiff's Appeal was dismissed. The Plaintiff filed his Notice of Appeal on October 18, 2011 prior to the expiration of the thirty (30) day deadline.
- The Court ruled that demolition costs for Buildings 105 E. Hunter Cr., 115 E. Hunter Cr., 119 W. Hunter Cr. and 121 W. Hunter Cr. could not be considered as part of the Bond for Stay and set the Bond for Stay at \$2,500.00 pending the Appeal filed by the Plaintiff.
- Applewood Owner/Attorney Joseph Levitt and the City of Oak Ridge have filed Briefs. The Court of Appeals heard argument on August 28, 2012.
- The Court of Appeals Opinion filed October 30, 2012 ruled in favor of the City on all issues but one, and remanded the Case to City of Oak Ridge Board of Buildings and Housing Code Appeals to hear evidence on the value of the Buildings and the cost of repair. A copy of the Opinion is available for review in the Legal Department.
- On March 21, 2013, the Oak Ridge Board of Building and Housing Code Appeals held a hearing for the purpose of declaring these Buildings unfit for human occupation or use. The Court of Appeals in its Order made this finding as part of its Order to Remand the case to the BBHCA for a determination on demolition of the structures.
- After hearing proof presented by the City and Applewood Attorney/Owner Levitt, the Board declared the structures unfit for human occupancy and use and they have been posted by the City of Oak Ridge Code Department. The Board reserved a decision on demolition pending a further hearing.

- **Joseph J. Levitt, Jr. v. City Of Oak Ridge, Board Of Building and Housing Appeals And Denny Boss - Anderson County Chancery Court – Case No. 11CH3003**

- On April 11, 2011, Plaintiff Joseph J. Levitt, Jr., owner and attorney for Applewood Apartments, filed a Complaint for Appeal, Certiorari, and Supersedeas, or in the Alternative to Supersedeas, for an Injunction against the City of Oak Ridge Board of Building and Housing Code Appeals and Denny Boss, as a representative of the City's Code Enforcement Division.
- The Complaint seeks injunctive relief and Chancery Court review of the Board's Order of Demolition filed February 10, 2011 for those certain Applewood Apartment buildings located at 101 E. Hunter Cr., 102 E. Hunter Cr., 103 E. Hunter Cr., 112 E. Hunter Cr., 114 W. Hunter Cr., and 120 W. Hunter Cr.
- This Case was stayed by Chancery Court Order dated March 19, 2012 pending a Decision by the Court of Appeals in Case No. CH2768.

- **Booker, Felix Charles v. Michael A. LaPaglia, M.D., Methodist Medical Center, City of Oak Ridge, Anderson County, ET AL. – Anderson County Circuit Court – B1LA0049/District Court #3:11-CV-126 – AWAITING TRIAL**

- On February 11, 2011, Plaintiff Felix Charles Booker, filed a Complaint against Michael A. Lapaglia, M.D., Methodist Medical Center, City of Oak Ridge, Anderson County and various other listed defendants for false arrest and imprisonment, assault and battery, medical battery, outrageous conduct and various constitutional claims. The Plaintiff is claiming damages in an unspecified amount along with an award of attorney fees.
- On October 19, 2011, the City of Oak Ridge filed a Motion for Summary Judgment. The Court ruled against the City on the issue of Qualified Immunity and the Order has been appealed to the 6<sup>th</sup> Circuit Court.
- The trial date is December 3, 2013.

- **Johnson, Leah White v. City of Oak Ridge – U.S. District Court for the Eastern District of Tennessee 3:11-CV-401 - AWAITING TRIAL**

- Plaintiff Leah Johnson, currently employed as Lead Records Specialist by the Oak Ridge Police Department, filed this Complaint in Federal Court on August 23, 2011 after non-suiting her original claim in Anderson County Chancery Court (Non-Suit Order entered June 10, 2011). The Plaintiff's claims are based on age discrimination, hostile work environment, retaliation, disparate treatment, harassment, and are joined with several other claims. Plaintiff asks to be awarded

compensatory damages in the amount of \$250,000.00 and punitive damages in the amount of \$1,000,000.00.

### **BACKGROUND INFORMATION**

- (a) Plaintiff filed a Grievance with the City of Oak Ridge Personnel Advisory Board (PAB). At the hearing on September 22, 2010, the PAB unanimously voted to deny the Grievance for failure to follow the requirements of specifying what policy or ordinance is alleged to be violated and what remedy is sought.
- (b) Plaintiff filed a Complaint with the U.S. Equal Employee Opportunity Commission on November 7, 2010. The Commission issued a "Notice of Dismissal and Notice of Suit Rights" on May 26, 2011 which stated that based on its investigation the EEOC was unable to conclude that the information obtained establishes violations of the Statutes. The Order did not certify that the City of Oak Ridge was in Compliance with the Statutes. No finding was made as to any other issues that might be construed as having been raised by the Complaint.

- The law firm of Watson, Roach, Batson, Rowell & Lauderback PLC, attorneys for the TML Risk Management Pool will be defending the City. The Legal Department will assist in defense of this claim. A copy of the entire Complaint is available for review in the Legal Department.
- The Court filed its Ruling on the City's Motion for Summary Judgment on April 29, 2013. The Judge dismissed the Plaintiff's claim under Title VII disparate treatment and the State law claims of extreme and outrageous conduct, negligent and intentional infliction of emotional distress, negligent hiring, supervisor, and training and gross negligence. The Court ordered the case to go to trial on the issues of ADEA claim of disparate treatment and the Title VII and ADEA claims of hostile work environment and retaliation.

— A trial is set for June 24, 2013.

- **Duff, Angelo v. City of Oak Ridge, Oak Ridge Police Department, Chief David Beams, Brad Jenkins and Matthew Tedford – U. S. District Court for Eastern District – Case #3:10-CV-230; Remanded to Anderson County Circuit Court – DISMISSED**

- A trial date was set for February 21, 2013, however, the Court granted the City's Motion for Summary Judgment and this case was dismissed by Court Order filed on November 26, 2012.

- **Comcast v. Jeff Cole, Anderson County Clerk, City of Oak Ridge, et al – ON HOLD PENDING APPEAL**
  - The Plaintiffs Motion to Transfer this case to Davidson County Chancery Court and consolidate it with a similar case pending in that Court was denied and the Trial Court ruled that all pending cases shall be held in abeyance until the Davidson County litigation is finally decided.
  - The Chancery Court for Davidson County has finally ruled on the Parties' Motions for Summary Judgment. The Chancellor held that Plaintiff's Commerce Clause challenge, which forms the basis of the present action was not well taken. The Chancellor however held that federal law has imposed a moratorium on the assessment of these taxes and further that the Department of Revenue has overstepped its bounds in assessing a tax pursuant to state law. It is anticipated that the Commissioner of Revenue will be appealing this decision.
  - The City's case is still on hold pending the resolution of the appeal.
- **Rhonda Bender v. City of Oak Ridge - U.S. District Court for Eastern District - Case # 3:12-CV-70 – STILL IN DISCOVERY PHASE**

- Plaintiff Rhonda Bender, formerly employed as an Animal Control Supervisor by the Oak Ridge Police Department, filed this Complaint against the City in Federal Court on February 13, 2012. The Complaint alleges various causes of action under Federal law including claims under the Americans with Disabilities Act (ADA), Civil Rights Act of 1964, in addition to claims for retaliation, hostile work environment, harassment, and other employment related claims. Plaintiff claims compensatory damages in the amount of \$250,000.00 and punitive damages in the amount of \$1,000,000.00 in addition to claims for back pay and attorney fees and other relief. A jury is demanded to hear the case.

#### **BACKGROUND INFORMATION**

- (a) Plaintiff was terminated from her employment with the City of Oak Ridge by City Manager Mark Watson in February 2011. She filed a Grievance with the City of Oak Ridge Personnel Advisory Board (PAB) and on June 16, 2011 the PAB entered an Order which found no violation of the City's Personnel Ordinance occurred in the termination of the Plaintiff.
- (b) Plaintiff filed a Complaint with the U.S. Equal Employee Opportunity Commission on May 25, 2011. The Commission issued a "Notice of Dismissal and Notice of Suit Rights" on November 16, 2011 which stated that "based on its investigation the EEOC was unable to conclude that the information obtained establishes violations of the Statutes." The Order did not certify that the

City of Oak Ridge was in Compliance with the Statutes. No finding was made as to any other issues that might be construed as having been raised by the Complaint.

- The law firm of Watson, Roach, Batson, Rowell & Lauderback PLC, attorneys for the TML Risk Management Pool will be defending the City. The Legal Department will assist in defense of this claim. A copy of the entire Complaint is available for review in the Legal Department.
- This case has been set for trial on October 21, 2014.
- **Gulley, Wesley Anton v. Michael A. LaPaglia, M.D., Methodist Medical Center, City of Oak Ridge, Anderson County, et al. – Anderson County Circuit Court – B2LA0176 – PENDING**
  - On June 1, 2012 Plaintiff Wesley Anton Gulley filed a Complaint against Dr. Michael A. LaPaglia, Methodist Medical Center of Oak Ridge, the City of Oak Ridge, et al. in Anderson County Circuit Court for false arrest and imprisonment, assault & battery, outrageous conduct and various constitutional claims. The Plaintiff claims both compensatory and punitive damages in an unspecified amount along with an award of attorney fees, and injunctive relief.
  - The law firm of Watson, Roach, Batson, Rowell & Lauderback PLC, attorneys for the TML Risk Management Pool will be defending the City. The Legal Department will assist in defense of this claim. A copy of the entire Complaint is available for review in the Legal Department.
  - Settlement negotiations between the Plaintiff's attorneys and TML Risk Management Counsel are ongoing.
- **Carton Services et al. v. Anderson County, Tennessee and ACEDA, et al. al. – Anderson County Chancery Court No. 12CH4389 – PENDING**
  - On July 9, 2012 Carton Services, Inc., GWDU Leasing, Inc. CMH Manufacturing, Inc. and Seneca Medical, Inc. filed a lawsuit in Anderson County Chancery Court against Anderson County and the Anderson County Economic Development Association (ACEDA) and its members. Three of the members are City of Oak Ridge appointments: Mayor Tom Beehan, William Biloski, and Dominic Giulilano.
  - The suit claims that ACEDA acted illegally and improperly in recommending changes to the Restrictive Covenants of the David Jones Industrial Park.
  - Plaintiffs request an award of unspecified damages, injunctive relief, and attorney fees.
  - The law firm of Watson, Roach, Batson, Rowell & Lauderback PLC, attorneys for the TML Risk Management Pool will be

defending the City. The Legal Department will assist in defense of this claim. A copy of the entire Complaint is available for review in the Legal Department.

— The Defendant's Motion to Dismiss was heard on November 26, 2012 and was denied.

• **City of Oak Ridge v. Chris Dollman and Jeff Crawford  
Anderson County Circuit Court - # B2LA0240 – AWAITING  
TRIAL**

— The Defendants were found guilty of cutting trees on City Greenbelt in City Court on April 1, 2011. They were fined \$50.00 and costs by Alternate City Judge Lawrence Tunnell.

— The City demanded reimbursement from the Defendants for the value of the trees they cut; however, attempts to reach a settlement were unsuccessful.

— City of Oak Ridge filed this civil action for damages to City property in Anderson County Circuit Court on August 17, 2012.

— A Hearing has tentatively been scheduled for August 9, 2013 on the Court's non-jury docket, pending completion of Discovery by the Parties.

• **Mark Coffey v. City of Oak Ridge et al. al – Anderson County  
Circuit Court #B2LA0244 – DISCOVERY PHASE**

— On August 20, 2012, Mark Coffey filed a civil action in Anderson County Circuit Court against the City of Oak Ridge, Oak Ridge Police Chief James Akagi and others.

— The Plaintiff's claim for retaliatory discharge is based on his allegations that he was forced to resign from the Oak Ridge Police Department.

— The Plaintiff claims compensatory damages in the amount of \$300,000.00 and punitive damages in the amount of \$300,000.00. No trial date has not been set.

Initial depositions were held on April 11, 2013, with additional depositions to be scheduled.

— The law firm of Watson, Roach, Batson, Rowell & Lauderback PLC, attorneys for the TML Risk Management Pool will be defending the City.. The Legal Department will assist in defense of this claim. A copy of the Complaint is available in the Legal Department for review.

• **Phillip Nall, Paul Nance, Cartel Webb and Robert Pitts v. City of  
Oak Ridge - Anderson County Chancery Court #12CH4747 –  
DISCOVERY PHASE**

- On August 24, 2012 the PAB heard a grievance filed by the Plaintiffs, who are employed by the Oak Ridge Police Department, and ruled that the City Manager did not violate the Personnel Ordinance in his denial of the Plaintiffs request for a salary adjustment.
- On November 6, 2012, Plaintiffs filed a Petition for Writ of Certiorari in Chancery Court contesting the ruling of the City of Oak Ridge Personnel Advisory Board (PAB) on their Claim for a salary adjustment. Plaintiffs request that the Court award each of them a salary adjustment to \$61,000.00 from their current yearly salary of \$55,500.00 and other general relief under the City of Oak Ridge Personnel Ordinance, Article 5 Pay Plan at § 5.1.
- The law firm of Watson, Roach, Batson, Rowell & Lauderback PLC, attorneys for the TML Risk Management Pool will be defending the City. The Legal Department will assist in defense of this claim. A copy of the Complaint is available in the Legal Department for review.
- **Bonnie O'Hara v. City of Oak Ridge – Anderson County Circuit Court # B2LA0259 – DISCOVERY PHASE**
  - The Plaintiff filed a Complaint for personal injury against the City of Oak Ridge on September 7, 2012 as a result of a slip and fall by Plaintiff on the floor of the Civic Center Gym. Plaintiff claims there was a “foreign substance” on the floor.
  - Plaintiff claims damages in an amount not to exceed \$68,000.00.
  - The law firm of Watson, Roach, Batson, Rowell & Lauderback PLC, attorneys for the TML Risk Management Pool will be defending the City. The Legal Department will assist in defense of this claim. A copy of the Complaint is available in the Legal Department for review.
- **Kay Littlejohn v. City of Oak Ridge – U.S. District Court for the Eastern District of Tennessee at Knoxville #3:13-CV-00204 (Removed from State Court) – DISCOVERY PHASE**
  - Plaintiff, Kay Littlejohn, filed a Civil Action in Anderson County Circuit Court against the City, Case #B3LA0071 on March 21, 2013 while her EEOC complaint was still pending. The Plaintiff claimed actual and compensatory damages in the amount of \$850,000.00 to include back pay, front pay, reinstatement, attorney's fees, costs, pre-judgment interest, post-judgment interest for causes of action including but not limited to Common Law Outrageous Conduct Intentional Infliction of Emotional Distress, Violation of FMLA Statutes and Discrimination. Plaintiff also included a demand for \$2,000,000.00 in punitive damages following the issuance of an

EEOE "Right to Sue" determination letter. The City filed a Notice to Remove the case to Federal Court on April 16, 2013.

**BACKGROUND INFORMATION**

(a) Plaintiff was terminated from her employment with the City of Oak Ridge by City Manager Mark Watson in February 2011. She filed a Grievance with the City of Oak Ridge Personnel Advisory Board (PAB) and on June 16, 2011 the PAB entered an Order which found no violation of the City's Personnel Ordinance occurred in the termination of the Plaintiff.

(b) Plaintiff filed a Complaint with the U.S. Equal Employee Opportunity Commission on March 24, 2012. The Commission issued a "Notice of Dismissal and Notice of Suit Rights" on April 25, 2013 which stated that "based on its investigation the EEOC was unable to conclude that the information obtained establishes violations of the Statutes." The Order did not certify that the City of Oak Ridge was in Compliance with the Statutes. No finding was made as to any other issues that might be construed as having been raised by the Complaint.

— The law firm of Watson, Roach, Batson, Rowell & Lauderback PLC, attorneys for the TML Risk Management Pool will be defending the City.. The Legal Department will assist in defense of this claim. A copy of the Complaint is available in the Legal Department for review.

- **Rivers Run Properties v. City of Oak Ridge, Oak Ridge Regional Planning Commission, The Cowperwood Company and Ridge Realty and Parcel RP LLC v. Anderson County and the City of Oak Ridge – PENDING**

— These cases remain pending.

**V. Goal: To provide legal assistance to City Staff in resolving legal issues that arise in the normal course of City business and do not fall into any identifiable category:**

**Objective: A. To enable City staff to efficiently perform their departmental duties and serve the public.**

- **New China Palace Lease Agreement.**: City Council Resolution 2-6-11 dated February 14, 2011 approved a two-year (2) year lease to commence on March 1, 2011 and expire on February 28, 2013. The owners agreed to the terms of Lease. The original owners have sold the business to Cheng Ping Ren who is relocating the restaurant to 123 Central Avenue. Remodeling of the new location is not yet complete, and Mr. Ren requested a short term lease agreement with the City. The City Manager signed a three month lease agreement with Mr. Ren, set to expire on May 31, 2013. The Tenant requested another Lease extension with a final expiration date of September 2, 2013. This is pending.

- **Alexander Inn/Boatman/Oak Ridge Revitalization Effort/Code Violations:** In August 2012 a Memorandum of Agreement was entered into among various stakeholders to preserve certain historical sites in the city of Oak Ridge and K-25 (East Tennessee Technology Park). The MOA provided funding in the approximate amount of \$500,000.00 to consist of \$350,000.00 to purchase and \$150,000.00 for restoration of the Alexander Inn (Guest House). Ethiel Garlington is the Director of Preservation Field Services for the East Tennessee Preservation Alliance and is working with the various owners of the Alexander Inn to close on the sale of the Inn and transfer the property to Guest House Alexander Senior Living, LLC for the construction of a senior living facility using designated historical portions of the Inn as part of the facility. Upon recommendation by the IDB, City Council passed Resolution 10-82-2012 on October 22, 2012 which approved a 10-year 90% payment in lieu of tax agreement between the IDB and the LLC. The PILOT lease was closed on January 15, 2013.

The transfer of the Alexander from Oak Ridge Revitalization Effort to Oak Ridge Alexander Inn, Incorporated by A Deed in Lieu of Foreclosure was recorded on May 8, 2013 in Deed Book 1581-1554 in the Register of Deeds Office for Anderson County. Subsequently, the following additional transfers were recorded on the same date:

- Warranty Deed from Oak Ridge Alexander Inn, Incorporated to Knox Heritage, Inc. in Deed Book 1581-1563 for a stated consideration of \$350,000.00.
- Quit Claim Deed from Knox Heritage, Inc. to Guest House Alexander Senior Living, LLC in Deed Book 1581-1568. This deed contains certain reversionary rights in favor of Knox Heritage which require the Grantee Guest House Alexander Senior Living LLC to renovate and restore the property as set out in the Deed of Preservation Easement recorded in Book 1581-1573.

- **Daniel Arthur Building/Oak Ridge Senior Center –Anderson County Lease:** The Legal Department participated with former City Manager Jim O'Connor, Josh Collins, the Anderson County Mayor and Law Director in negotiating a renewal of the lease for the Daniel Arthur Complex where a portion of it is occupied by the Oak Ridge Senior Center. City Council Resolution 12-117-09 dated December 14, 2009 approved the Lease for a five-year term from January 1, 2010 to December 31, 2014.
- **EPA Administrative Order #CWA-04-2010-4772 dated September 10, 2010:** The negotiations between the City and the EPA to formulate corrective actions and schedules for compliance with the Administrative Order involve the City Manager, City Attorney, Public Works staff, Consultant Lamar Dunn, as well as outside legal assistance with expertise in dealing with EPA, provided by the J. W. Luna Law Firm, Nashville. The original amount of fines/penalties calculated by EPA were in the \$4-5 million

range. The City Attorney was in settlement negotiations with EPA Regional Counsel for the penalty phase of this Order and on July 9, 2012 by Resolution 7-55-2012, City Council approved a cash settlement for all fines and penalties in the amount of \$171,000.00 with the EPA Regional Counsel's office.

On February 5, 2013, a City "Ad/Hoc" Committee consisting of Councilmembers Chuck Hope (Chairman), Charles Hensley, and Anne Garcia Garland along with Mark Watson, City Manager, Ken Krushenski, City Attorney, and Ellen Smith, designated Citizen Representative, met with EPA officials in Atlanta, Georgia to discuss the Administrative Order and time deadlines. The Committee presented recommendations to Council at its March 18, 2013 meeting and Council approved Resolution 03-21-2013 which reaffirmed the City's willingness to comply with the EPA's Administrative Order.

- **Plan ET Program:** On August 9, 2010, Council passed Resolution No.8-80-10 which approved a Memorandum of Understanding among the City of Knoxville and various participating regional governmental entities to improve regional planning efforts by integrating housing, land use, economic and workforce development and infrastructure investments. The Final Consortium Agreement for the Development of a Regional Plan for East Tennessee was entered into on September 1, 2011 and filed with the City Clerk on October 19, 2011. The City Attorney participated in the review and approval of the MOU and the Draft of this Agreement. The final report for his program is due to be filed by December 31, 2013.
- **ETHRA Bus Contract:** The City Attorney will be assisting in negotiations to effect the transfer of the ETHRA bus system back to ETHRA. Contract amendments will be required and this continues to be an ongoing project with the Community Development Department, the State of Tennessee and ETHRA all involved.
- **City of Oak Ridge/DOE – Contract to Provide Water to DOE Sites:** The City Attorney provided legal assistance to Fire Chief Kerley, Gary Cinder and Janice McGinnis during several months of negotiation for an extension of this Contract with DOE. The City was assisted by Legal Counsel Seth Kirshenberg of Kutak Rock Law Firm. Mr. Kirshenberg participated in the drafting of the original legal documents when the DOE transferred the Water Plant to the City in April 2000. After months of discussions and meetings, the Parties reached an agreement to extend the Contract to December 31, 2015. Council was presented with a copy of the re-drafted Agreement and Memorandum No. 12-15 from the Finance Department at its meeting on December 10, 2012. By Resolution 12-103-2012 Council approved the Contract at that meeting.
- **Oak Ridge High School Construction Project Bonds/City Sales Tax Referendum – August 2004:** In response to a letter received by the City from Charles Cagle, Oak Ridge Schools Attorney, the

City Attorney prepared a response in the form of Legal Department Memorandum No. 12-03 with attachments. A series of negotiations between the schools and the City with regard to the allocation of sales tax proceeds to pay off the Bond indebtedness followed this exchange. At the request of Councilmember Charles Hensley, I provided Council with a status report of this matter in Legal Department Memorandum No. 13-11 dated March 8, 2013. Additionally, Council was provided with Legal Department Memorandum No. 13-15 dated April 18, 2013 which confirmed the current status of this pending matter with the State Comptroller's office.

- **Learning Ally (Recording for the Blind) 205 Badger Road:**  
After an article appeared in the local press concerning the proposed closing of the Recording for the Blind office early in 2013, the City Attorney's office was contacted by representatives of Learning Ally of Princeton, New Jersey (formerly Recording for the Blind) to inform the City of Oak Ridge Legal Department that they were in fact considering terminating their land lease with the City for the building located at 205 Badger. The City owns the land, and the Lease, which expires in 2018, provides that at the expiration/or termination of the Lease the property together with all buildings/structures located on it shall be turned over to the City. By Certified Letter dated April 24, 2013 signed by Andrew Friedman, President and CEO of Learning Ally, Our office received official notice that they were prepared to turn over the property to the City "as is" as of August 1, 2013. City Staff conducted an initial inspection of the building and prepared a report on its condition. The Oak Ridge Civic Music Association occupies a portion of the building and is aware that Learning Ally will be vacating the property and surrendering the premises to the City of Oak Ridge. This matter will be presented to Council for review with Staff recommendations at a formal Council meeting prior to August 1, 2013.
- **Dogwood Manor Apartments, Inc. – Cooperation Agreement/Payment in Lieu of Taxes :** In January 2012, the City Attorney's office was contacted by Anne Dunthorn about the possibility of obtaining City approval in the form of a Payment in Lieu of Tax Agreement for a HUD Project known as Dogwood Manor Apartments to be constructed at 95 Adams Lane in the City of Oak Ridge, Anderson County. Similar HUD projects have been approved by Council in the past. After several meetings with Ms. Dunthorn, Legal Department Memorandum 12-42 was presented to Council with a description of the Project and a copy of supporting documentation from Ken Mabrey, President of Dogwood Manor Apartments, Inc. At its September 10, 2012 meeting, Council approved Resolution 9-70-2012 which allowed the project to move forward. The Agreement was joined in by Anderson County on October 15, 2012; it is expected that construction of the Project will be completed in early July 2014.
- **Woodland Town Center:** In July 2008, with the passage of an amendment to the City's Zoning Ordinance designated as Ordinance 22-08, City Council began the process for the creation of a commercial project in the Woodland Community presented to

Council by Developers Walter Wise and T. K. Wheeler of Central Park Development. The Project became known as "Woodland Town Center" and required additional assistance from the City and Anderson County in the form of Tax Increment Financing (TIF) for completion of the Development and the closing and re-alignment of Quincy Avenue.

The IDB passed the Developers' request for the TIF on December 5, 2011. The TIF was presented to City Council at its December 12, 2011 meeting and approved by Resolution No. 12-20-11. The Anderson County Commission approved the TIF on or about December 19, 2011.

Resolution No. 12-118-11 closing and re-aligning Quincy Avenue was also approved by Council at its December 12, 2011 meeting. The closing on the land transfer in Woodland Town Center to Aubrey's Restaurant and Panera took place on May 4, 2012 and was reported to Council in Legal Department Memorandum No. 12-32 dated May 11, 2012. It is anticipated that additional tracts in the approved TIF Zone will be developed by Aldi's Corporation in the coming months. To facilitate this process Council passed Ordinance No. 02-2013 at its meeting which approved rezoning a portion of this property to accommodate the location of Aldi's.

- **Weigels Project:** At its meeting on October 8, 2012, Council approved a rezoning ordinance on Second Reading, Ordinance # 10-2012, and Resolution 10-80-2012 which established access to South Illinois Avenue. This allowed the Weigel's Convenience Store and Gas Station project to move forward on property which was formerly proposed for construction of a Holiday Inn Express. Besides reviewing the Ordinance and Resolution, the Legal Department has not been requested to review any other documents for the development of this project.
- **Unemployment Benefits:** The Legal Department filed a hearing request to contest the receipt of unemployment benefits by a former probationary employee who was removed from his position due to workplace misconduct. The City was successful in this hearing and successful during both appeals by the former employee. This resulted in \$2,853.00 being returned back to the City and State.
- **Dog Park:** The Legal Department is working with Josh Collins, Director of Recreation and Parks, as Staff Liaison to the Parks Board and with Animal Control on proposed dog park rules and required City Code amendments in anticipation of the dog park to be constructed in the near future.
- **School Resource Officer Memorandum of Understanding:** The Legal Department has been involved in meetings with various city and school staff/administration on the issue of school resource officers. The Legal Department has been working with the School's attorney on a draft MOU and is currently waiting for a response back from the school's attorney on the latest version that was submitted on March 22, 2013.

- **Open Records / Records Retention Policies:** The Legal Department is working with the City Clerk on the City Clerk's project of an open records policy and a records retention policy.
- **Open Records Requests:** The Legal Department serves as legal advisor to City Clerk and other department for public records requests when there is an issue regarding confidentiality.

**Objective: B. To assist the Police Department in the rebanding of the public safety radio communication system.**

- The City has completed the physical rebanding of its 800 MHz radio system, including subscriber and infrastructure activities, as of April 30, 2011. The City has completed the administrative tasks of re-banding. Final payment for re-banding is expected within the near future.

The following items are currently under review by the Legal Department for action during FY13/FY 14:

- **Ordinance Changes**
  - Alcohol Beverage Control Ordinance changes to procedure and possible fee increases
  - Rental Inspection Ordinance changes
- **State Law Changes to the Tennessee Worker's Compensation Act**
- **City of Oak Ridge Review of the Real Property Appraisal Process with the Anderson County/Roane County Property Assessor's Offices.**

  
 Kenneth R. Krushenski

# 2012 City Attorney Evaluation Forms

## COURTESY AND COMMUNICATION SKILLS

Rate the ability of the City Attorney to inspire, encourage, and facilitate the activities of subordinates and peers to achieve City goals. Consider the degree of ingenuity demonstrated in seeking proactive solutions and assuming responsibility for outcomes, as well as creativity, resourcefulness, and communicating in a manner that inspires confidence or builds support.

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Is accessible, responsive, considerate and courteous in his interactions with Council.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments:

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Provides legal opinions and/or advice in a timely manner.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Creates a sense of trustworthiness.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Keeps the Council informed about current issues, legal activities, decisions, and goals.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Communicates well with a wide range of persons, including Councilmembers, citizens, staff, and other attorneys.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments:

List notes or comments that support the overall rating on courtesy and communication skills.

**KNOWLEDGE AND ADAPTABILITY**

Rate the ability of the City Attorney to prepare and review legal documents, represent the City in all legal matters, and direct the management of all litigation and laws of the City of Oak Ridge, per the Oak Ridge City Charter.

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Demonstrates a thorough knowledge and understanding of municipal law.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments:

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Is knowledgeable about City issues and about legal trends that may impact the City.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments:

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Provides advice on ordinance changes, drafting of new ordinances and amendments.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments:

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Provides concise, understandable, and helpful legal options and/or advice.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments:

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Demonstrates openness to alternative approaches.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments:

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Adjusts rapidly to changes in plans or procedures.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments:

List notes or comments that support the overall rating on knowledge and adaptability.

**ADMINISTRATIVE SKILLS AND EFFECTIVENESS**

Rate the ability of the City Attorney to supervise the administrative affairs of the legal department to include staffing, the management of the department, and the provision of City services.

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Functions effectively under pressure.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments:

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Demonstrates leadership that contributes to achieving the City's goals and objectives.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments:

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Effectively evaluates legal problems and alternatives.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments:

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Demonstrates effectiveness in avoiding unnecessary legal controversy.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments:

List notes or comments that support the overall rating on administrative skills and effectiveness.

**PERSONAL AND PROFESSIONAL QUALITIES**

Evaluate the character of the City Attorney, including his integrity, his ethics, his fairness and equity in dealing with employees, City Council and the public, his dedication to professional development, time management, problem solving, and decision-making skills.

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Maintains high standards of ethics, honesty, and integrity in all personal and professional relationships.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments:

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Retains your confidence when informing you of risks associated with proposed actions or decisions.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments:

	NI = Needs Improvement	FME = Fully Meets Expectations	EE = Exceeds Expectations	NA = No observation or too early to tell
Works toward gaining and maintaining the respect and support of staff.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

General Comments:

List notes or comments that support the overall rating on personal and professional qualities.

**ADDITIONAL NARRATIVE – LOOKING AHEAD**

What would you identify as the City Attorney's strength(s), expressed in terms of the principal results achieved during the rating period?

What performance area(s) would you identify as most critical for improvement?

What constructive suggestions or assistance can you offer the City Attorney to enhance performance?

What other comments do you have for the City Attorney, e.g. priorities, expectations, goals, or objectives for the new rating period?

Please provide recommendations and comments on a possible change in compensation (currently \$102,460.80) and a contract extension beyond the current expiration date of March 1, 2016

Please enter your name:

Please provide your e-mail address *only* if you wish to receive a copy of the completed form *and* if completed this form through the link provided in the e-mail sent by the City Clerk. If you filled out the attached PDF form that was sent by e-mail then you can simply save the form on your computer.