



Legislation Details (With Text)

File #: 2016-781 **Version:** 1 **Name:**
Type: Discussion **Status:** Agenda Ready
File created: 6/30/2016 **In control:** City Council
On agenda: 9/20/2016 **Final action:**
Title: COST AND EXPENSES INCURRED BY THE CITY IN CONNECTION WITH THE FORMER CITY CLERK JIM DEAR (CITY COUNCIL)
Sponsors:
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
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Report to Mayor and City Council

Tuesday, September 20, 2016

Discussion

SUBJECT:

COST AND EXPENSES INCURRED BY THE CITY IN CONNECTION WITH THE FORMER CITY CLERK JIM DEAR (CITY COUNCIL)

I. SUMMARY

This item is on the agenda at the request of Mayor Pro Tem Lula Davis Holmes. She has asked for a full status report and accounting on all costs and expenses incurred by the City in connection with the former City Clerk Jim Dear during the last year. The detailed items reported on in this staff report are specified by her and other council members.

In short, the total cost and expenses incurred by the City in connection with the former City Clerk is approximately \$805,000 as detailed below.

II. RECOMMENDATION

RECEIVE and FILE this report.

III. ALTERNATIVES

TAKE such other action as the City Council deems appropriate consistent with the requirements of law.

IV. BACKGROUND

This report discusses in detail the accounting of cost and expenses incurred by the City in connection with the former City Clerk.

1) Investigation/Censure proceedings of Jim Dear: In summer of 2015 over 13 current employees filed written or oral complaints against the former City Clerk Jim Dear for racial animus, creation of a hostile workplace and other acts of mistreatment of both City employees and non-employees. The City Manager was required by law to conduct a formal investigation into these allegations and claims otherwise the employees would have had a claim against the city for failure to investigate these claims. In August of 2015, outside investigator/attorney Maria K. Aarvig, Esq., was retained and commenced an investigation into the complaints. She conducted a thorough investigation effort which necessitated an amendment to her contract in light of approximately 10 more former and current employees coming forward with similar complaints. Towards the end of September after the conclusion of her investigation, several public hearings and attempts to interview Mr. Dear, the investigator concluded that Mr. Dear in fact had violated various state laws and city codes of ethics. She concluded that if Mr. Dear was a supervisor city employee his employment with the City would have to be immediately terminated. But because Mr. Dear was an elected official and could not be let go by management, Ms. Aarvig made recommendations that Mr. Dear would be publicly censured and for the City to put in place certain immediate security measures to protect the employees. The total cost of this process, including the investigation cost, legal expenses, and cost associated with the implementation of the investigator's security recommendations was \$410,000

a) Security/Cameras \$297,000 - This amount includes one year of a four year contract with Central Parking Services. This contract is for upgrading from two security officers to seven security officers to monitor City Hall, Community Center and Corporate Yard. It also includes several one-time expenses for cameras, monitors, a metal detector and handheld metal detection devices.

Ongoing expenditures for security include Code Enforcement staffing during Council meetings at approximately \$1,320.00 per month and outside staff to operate the metal detection station during each Council meeting is approximately \$2,200.00 per month - together totally approximately \$3,520.00 per month in *ongoing* expenditures.

b) Legal expenses associated with the proceedings, legal research on security measures, elected officials' rights v. employee rights, public records issues and other applicable issues - approximately \$45,000

c) Investigator expense \$68,000 (Creason and Aarvig, LLC)

2) Rand lawsuit: Mr. Jim Dear has been sued in his personal capacity for fraud by Rand Resources, LLC and El Camino, LLC ("Rand") in a case captioned *Rand Resources, et al. v. City of Carson, et al*, Los Angeles County Superior Court Case No. BC564093. The complaint alleges that the former City Clerk, as an elected official engaged in fraudulent

activity with a Leonard Bloom, a developer, resulting in damages to Mr. Rand who had an exclusive agency agreement with the City. Under California law, and consistent with past practice, the City has provided for the defense of this civil action brought against Mr. Dear for alleged acts or omissions within the scope of his authority as an elected official until such time it is proved otherwise. Defense Cost attributed to Mr. Dear in this matter are approximately \$100,000.

3) Temporary Restraining Orders: The City was also forced to file lawsuits and obtain 2 temporary restraining orders in connection with the former City Clerk - one against Mr. Dear and members of the public he had deputized who were violating the City's security measures in his office based on his instructions and one against Monet Gavino a former employee who was harassing the current city clerk. The total cost and expenses associated with these two law suits and successfully obtaining the restraining orders is approximately \$50,000.

4) Unique Election Expenses: The City also incurred unique Election expenses this fiscal year given: 1) the recall of the former city clerk necessitating the hiring of a neutral election official and the involvement of the City Attorney's office in that election; 2) former City Clerk's handling of the special election to replace Assembly Member Mike Gipson's seat and his refusal to count the ballots, causing the City to look into hiring another elections official, then facing and defending litigation threats from Mr. Dear in connection with same, and dealing with candidates' claims against the City for Mr. Dear's refusal to process the ballots. This additional cost and other miscellaneous unique election cost to the City during the period of Mr. Dear's tenure as City Clerk to the City was approximately \$245,000, with the largest expense being Martin & Chapman election services at approximately \$132,500.

V. FISCAL IMPACT

The unanticipated and emergency expenses related to Mr. Dear come at very difficult time for the City's budget. The overall direct expense related to Mr. Dear and the recall election were **\$805,000**. However it should be noted that there were unaccounted expenses in staff time and City resources that were not calculated as a part the direct costs. These costs do not include the ongoing costs of Mr. Dear's increased pension.

The City Council was required to make a series of budget reductions, including paring back necessary maintenance of streets, parks and public facilities, in order to fund the expenses related to Mr. Dear. These unanticipated and unplanned emergency expenses were approximately one-half of the City's budget deficit of \$1.9 million, resulting in further reductions to the City's budget reserves.

VI. EXHIBITS

None.

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Analyst