CITY COUNCIL REPORT

DATE:

January 31, 2012

TO:

Mayor and Councilmembers

FROM:

Barbara Goodrich, Management Services Director

CC:

Kevin Burke, Jerene Watson, Josh Copley, Rick Tadder, Rosemary

Rosales, Vicki Baker

SUBJECT:

INCREASE FUNDING OF OUTSIDE LEGAL BY \$100,000

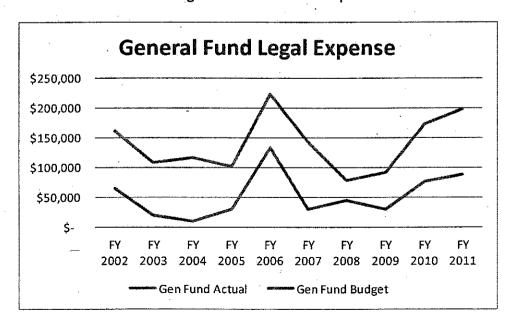
This report is in response to a request for more information as a result of Council discussion at the Budget Retreat on increasing the annual budget by \$100,000 to cover legal expenses.

DISCUSSION

City funding for outside legal expenses continues to grow on an annual basis. The funds that have the greatest outside legal expenditures are the general fund, the water/wastewater fund, and the self insurance trust fund.

GENERAL FUND:

The following chart illustrates that there is an approximate \$100,000 gap between the annual budget and the annual expenditures in the General Fund.

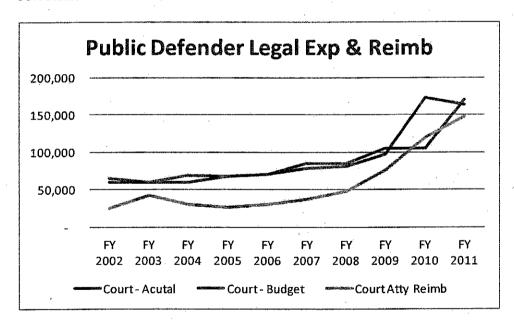


The majority of this cost goes to development and redevelopment matters. Some of the largest cumulative expenditures over the last five years have been to:

- ACIC (Presidio in the Pines)
- Bigelow (Presidio in the Pines)
- Presidio in the Pines HOA
- Canyon del Rio
- Sawmill

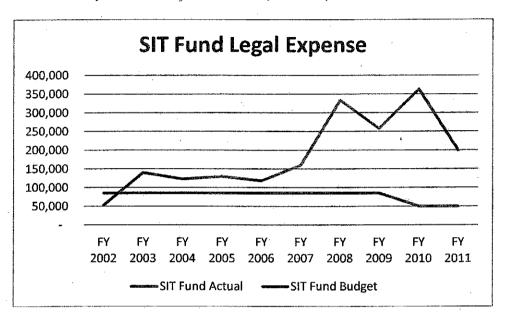
Also paid out of the General Fund, are those costs that are related to providing a public defender for the Municipal Court.

The following chart illustrates that while these expenditures have been going up, so has the reimbursement for these services. While there appears to be a correlation between the cost of the City providing a public defender with reimbursements based on ability to pay, the City cannot guarantee that this correlation would continue on an annual basis.



SELF INSURANCE TRUST FUND

The self insurance trust fund primarily handles the payment of legal expenses and claims as related to liability issues. The following chart illustrates that these costs have skyrocketed over the last several years and the budget has been exceeded by as much as \$300,000 (FY2010).

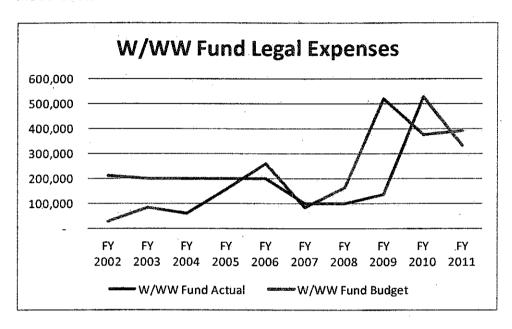


Some of the larger claims that have been processed in the last several years include:

- Employee matters
- · Vehicle accidents
- Policy issues

WATERWASTEWATER FUND

The Water/wastewater fund also expends a great deal of money on legal expenses. This has grown substantially in the last five years due to water rights issues associated with the Red Gap Ranch acquisition and the Navajo-Hopi Water Rights settlement and related litigation. The following chart illustrates these costs:



Of the total expended from FY2002 through FY2011 (\$2.1 million) the City has capitalized \$1.3 million with loans from the Water Infrastructure Financing Authority (WIFA).

As some of the major decision points have been agreed upon in regards to the water rights settlement, over the next couple of years, the City is considering a more financially sustainable long-term strategy by bringing water rights legal expertise in-house rather than continuing to fund outside counsel. However outside counsel would continue to be used during a transition phase and with specific litigation as needed. The Utilities Division is proposing to budget \$128,000 in FY13 for water rights legal counsel within its operations budget and not take on any additional debt for this service.

RECOMMENDATION / CONCLUSION

As the budget to actual gap in the General Fund is approximately \$100, 000 on an ongoing basis, it is recommended to increase the budget allocation for outside legal expense in the general fund.

The gap in the Self Insurance Trust fund has varied from \$150,000 to \$300,000 in the past five years. It is not recommended to increase the budget allocation in the Self Insurance Trust fund at this time as City staff is still looking to determine what the minimum fund balance in the Self Insurance Trust should be. This analysis will either indicate there continues to be capacity to fund the outside legal expense without increasing the budget for some period of time or it may indicate that the budget needs to increase. In this case, the City will look into this in the FY2014 budget cycle.