

CITY OF FORT PIERCE

CONFERENCE AGENDA

Conference Agenda Meeting - Monday, July 13, 2015 - 8:30 a.m.

City Hall - 2nd Floor Conference Room, 100 North U.S. #1, Fort Pierce, Florida

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **New Business**
 - A. Discussion of 2016 Legislative Agenda Priorities
 - B. Performance Evaluation of Linda W. Cox, City Clerk
 - C. Performance Evaluation of Robert J. Bradshaw, City Manager.
 - D. Discussion of International Municipal Lawyers Association (IMLA) Report
 - E. Alarm Ordinance Update - Police Chief
5. **Adjournment**

City Commission Conference Agenda

Agenda Item # 4. A.

Meeting Date: 07/13/2015

Re: Discussion of 2016 Legislative Agenda Priorities

Submitted For: Robert Bradshaw, City Manager, City Manager

SUBJECT:

Discussion of 2016 Legislative Agenda Priorities

Attachments

[2015 Legislative Priorities](#)

Form Review

Form Started By: Jennifer Robinson
Final Approval Date: 07/07/2015

Started On: 07/07/2015 12:16 PM



City of Fort Pierce

2015 Legislative Delegation Priorities

1. **Port of Fort Pierce**
 - a. Continued support of sustainable industries/mixed use development of the port to propel economic development in the City of Fort Pierce and St. Lucie County

2. **Annexation**
 - a. Special act by legislation
 - b. Interlocal Service Boundary Agreement

3. **Economic Development Incentives**
 - a. Tax incentives for business growth
 - b. Enterprise Florida
 - c. Enterprise Zone

4. **Home Rule**
 - a. Continued protection under Florida's Home Rule powers for municipalities

5. **Tri-Rail Amtrak**
 - a. Continued support of Tri-rail and Amtrak service opportunities for the future

City Commission Conference Agenda

Agenda Item # 4. B.

Meeting Date: 07/13/2015

Re: City Clerk Performance Evaluation

Submitted For: Linda Cox, City Clerk, City Clerk

SUBJECT:

Performance Evaluation of Linda W. Cox, City Clerk

Attachments

[Linda Cox Employment Agreement](#)

[Linda Cox Performance Evaluation Form](#)

Form Review

Form Started By: Jennifer Robinson
Final Approval Date: 07/07/2015

Started On: 07/07/2015 12:04 PM

CITY OF FORT PIERCE - OFFICE OF THE CITY ATTORNEY

MEMORANDUM

TO: Fort Pierce Mayor & Commissioners
FROM: Robert V. Schwerer, Esq., City Attorney
SUBJECT: City Clerk Employment Agreement
DATE: August 28, 2013

Attached is the final draft of the City Clerk Employment Agreement which is being submitted to you for your consideration. The salient provisions of the agreement are:

1. Initial term of three (3) years commencing October 1, with a requirement the City Clerk obtain her Certified Municipal Clerk (CMC) certification within this time period.
2. Annual base salary of seventy five (\$75,000) thousand dollars.
3. Performance evaluation at six (6) months (calendar month of April) and annually thereafter.
4. Standard benefits including car allowance of \$350.00 per month, health and major medical insurance, and retirement benefits applicable to new hires.
5. Termination at will.
6. Severance pay equivalent to four (4) consecutive weeks.
7. Residency requirement within two (2) years.

The contract provisions have been negotiated and discussed with Mrs. Cox and she is agreeable to the terms set out in the agreement.

s/ *Robert V. Schwerer*

Robert V. Schwerer, Esq.
City Attorney

Enclosure
RVS/cf

cc: Robert J. Bradshaw, City Manager
Anne Satterlee, Interim City Clerk

CITY OF FORT PIERCE, FLORIDA

**LINDA W. COX
CITY CLERK**

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT made and entered into this 4th day of September 2013, by and between the **CITY OF FORT PIERCE, FLORIDA**, a municipal corporation, hereafter referred as to “**CITY**” and **LINDA W. COX**, hereafter referred to as “**COX**”.

WHEREAS, **CITY** desires to secure the services of **COX** as City Clerk for an initial period of three (3) years from the Effective Date of this agreement and **COX** desires to accept such position; and

WHEREAS, **CITY** and **COX** intend by this Agreement to provide certain benefits and establish certain conditions of employment to which **COX** has agreed.

NOW, THEREFORE, in consideration of the material advantages occurring to the parties and the mutual covenants contained herein, **CITY** and **COX** agree with each other as follows:

1. Employment.

COX will render full time professional services to **CITY** in the capacity of City Clerk of the **CITY** for the initial term of three (3) years, commencing October 1, 2013 (the “Effective Date”), through September 30 2016. In the event written notice of termination or notice of non-renewal of this Agreement is not given by either party to the other party ninety (90) days prior to the expiration of the term as hereinabove provided, this Agreement shall automatically renew and continue thereafter on a year-to-year basis. **COX** agrees to sever ties with her existing employer, and report for work, and the duties and employment of **COX** as City Clerk shall commence the Effective Date.

COX shall devote all of her time, attention, knowledge and skill, solely and exclusively to the business and interest of the City of Fort Pierce, and the public which it serves. **COX** will at all times faithfully, industriously, and diligently perform to the best of her ability all duties that may be required of her by virtue of her position as City Clerk, including the performance of all duties set forth in the City Charter, Ordinances, Resolutions and other City policies, and to perform other legally permissible and proper duties and functions to the reasonable satisfaction of the City Commission. Nothing herein shall prohibit **COX** from maintaining membership in or participating in private social or civic endeavors that do not interfere or detract from her performance of the terms of this Agreement. In the event **COX** makes formal application for full-time employment elsewhere while serving as City Clerk, she shall be required to provide written notice to the City Commission simultaneously with such application or submittal.

2. Compensation.

In consideration for these services as City Clerk, **CITY** agrees to pay **COX** an annual base salary of **SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00)** per annum, payable in bi-weekly installments.

The **CITY** agrees that it will not, at any time during the term of this Agreement, reduce **COX's** base salary or other financial benefits in a greater percentage than an applicable across the board reduction for all employees of the **CITY**.

3. Performance Evaluations.

The City Commission shall, upon the expiration of six (6) months of the Effective Date of this Agreement, and on an annual basis thereafter, evaluate **COX's** performance as City Clerk. These performance evaluations shall occur during the calendar month of April of each year, and shall be in such form and content and procedure as the City Commission shall in its discretion

determine. These performance reviews shall consider **COX's** overall performance and efficiency in her duties and job description as City Clerk, and shall also be used to monitor **COX's** compliance with attaining her Certified Municipal Clerk (CMC) certification within the time period set forth hereafter.

It is a specific condition of this agreement that **COX** shall have obtained her Certified Municipal Clerk (CMC) certification no later than thirty-six (36) months from the Effective Date of this Agreement. In the event **COX** fails to obtain such CMC certification within the time period specified herein, or if at any time **COX** fails to diligently and continuously pursue such CMC certification process during the term of this Agreement, the City Commission may in its sole discretion terminate this Agreement upon thirty (30) days written notice to **COX** and without liability to **COX** for the payment of any severance pay that may be provided for in Paragraph 6 of this Agreement.

4. Benefits.

In addition to annual compensation specified above, the **CITY** agrees to provide **COX** with the following benefits:

(a) **COX** shall be entitled to receive the same vacation, sick leave, and holiday time as defined in the City of Fort Pierce Personnel Rules and Regulations, including provisions governing accrual and payment thereof on termination of employment.

(b) Lease or car allowance at \$350.00 per month, or such other rate agreed upon by the City Commission.

(c) Membership dues to professional associations and societies directly relating to her position as City Clerk, subject to the approval of the City Commission.

(d) Comprehensive health and major medical insurance equal to that which is provided to other City employees.

(e) Retirement benefits as provided to City Employees, and specifically, such benefits applicable to new hires under current ordinances or rules and regulations or as subsequently amended.

5. Termination.

At all times during the term of this Agreement, **COX** shall be deemed an employee-at-will, and may be terminated at any time, with or without cause. For purposes of this Agreement, termination shall occur upon the happening of any of the following events:

(a) A majority vote of the entire City Commission at a duly authorized public meeting, with or without cause, at the sole discretion of the City Commission.

(b) If the **CITY**, its citizens, or legislature amends any provision of the Charter or Code substantially changing the form of government directly pertaining to the role, powers, duties, authority and responsibilities of **COX** as City Clerk, **COX** shall have the right to declare that such amendments constitute termination; or

(c) If **COX** resigns following a formal offer to accept resignation made by the majority of the entire City Commission at a duly authorized public meeting.

6. Severance.

Except as provided in this Agreement, severance will be paid to **COX** when employment is terminated as defined in Paragraph 5 above. Upon termination, all rights, duties and obligations of both parties shall cease except that the **CITY** shall continue to pay **COX** her then annual base salary for four (4) consecutive weeks thereafter, and the **CITY** shall also maintain **COX's** life insurance and major medical insurance coverage paid up and in effect during such period. **COX** shall also be compensated for all accrued sick leave and vacation time payable upon termination of employment as provided in the Personnel Rules and Regulations. During any time severance is being paid, **COX** shall not be required to perform any duties for the City or

come to the City.

The severance provisions set forth herein shall not apply and the City shall not be obligated to pay the four (4) weeks severance in the event **COX** is terminated for cause. "Cause" shall be defined as either conviction of any felony or any misdemeanor involving moral turpitude, commission of any act of fraud involving or affecting the City, willful failure to perform the duties of City Clerk, or material breach by **COX** of any duties or obligations under this Agreement and failure to cure such failure or breach after receipt of reasonable written notice, then, in that event, CITY shall have no obligation to pay the aggregate severance sum designated in this paragraph.

7. Best Efforts of Employee.

COX agrees that she will at all times faithfully, industriously and to the best of her ability, experience and talents, perform all the duties which may be required of and from her pursuant to the express and implicit terms hereof, to the reasonable satisfaction of **CITY**. **COX** further agrees that she will continue her education and training so that she will keep up with or exceed education requirements of her position, and specifically, to use her best and continuous efforts to obtain her City Clerk certification which shall be a mandatory term and condition of her employment under this Agreement. Such duties shall be rendered at Fort Pierce, St. Lucie County, Florida, and at such other places as **CITY** shall in good faith require, or as the interest, needs or opportunity of **CITY** shall require.

8. Disability.

If **COX** is permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or health for a period of either eight (8) successive weeks beyond any accrued sick leave, or for twenty (20) working days over a sixty (60) working

day period, **CITY** shall have the option to terminate this Agreement, subject to the severance pay requirements of Paragraph 6. However, **COX** shall be compensated for any accrued sick leave, vacation, holidays, and other accrued benefits.

9. Residency.

Commencing two (2) years from the Effective Date of this Agreement, and at all times thereafter, **COX** shall, maintain permanent residency within the City of Fort Pierce during her term as City Clerk.

10. Employee At-Will.

COX is an employee-at-will and works at the pleasure of the **CITY** who may, at any time and without showing cause, terminate this Employment Agreement.

11. Liability Claims.

The **CITY** shall defend and save harmless **COX**, but only to the limits of sovereign immunity, against any tort, professional liability claim or demand or other legal claim or action, whether groundless or otherwise, arising out of an alleged act or omission occurring in or arising out of the good faith performance of **COX**'s duties as City Clerk of the City of Fort Pierce. However, this covenant shall not apply to acts outside the scope of **COX**'s employment or services or for claims for punitive damages. The **CITY** will have the authority to compromise and settle any such claim or suit within the scope of **COX**'s employment and pay the amount of any settlement or judgment rendered thereon. To the maximum extent permitted by law, the **CITY** and **COX** shall rely upon the doctrine of sovereign immunity and the provisions of Section 768.28, Florida Statutes, or other applicable law.

12. Voluntary Resignation.

In the event **COX** voluntarily resigns her position with the **CITY**, **COX** shall provide a

minimum ninety (90) days written notice unless the parties agree otherwise. Unless such resignation follows a formal offer to accept resignation made by the majority of the entire City Commission as specified in Paragraph 5(c) above, **COX** shall not be entitled to nor shall the **CITY** be liable to pay severance if **COX** resigns.

13. General Provisions.

The following general provisions shall govern this Agreement:

(a) This Agreement shall be governed in accordance with the laws of the State of Florida.

(b) Jurisdiction over any dispute arising under this Agreement, and the venue thereof, shall lie in the Circuit Court of the Nineteenth Judicial Circuit, in and for St. Lucie County, Florida.

(c) This Agreement shall become effective immediately upon execution, and supersedes and replaces any prior written employment agreement.

(d) This Agreement constitutes the entire agreement and understanding between the parties and contains all of the agreements between them with respect to the subject matter hereof, and supersedes any and all other agreements or contracts, either oral or written, between the parties with respect to the subject matter hereof.

(e) The parties by mutual written agreement may amend any provision of this Agreement during the life of the agreement by document approved and signed with the same formalities as this Agreement. Such amendments will be incorporated and made a part of this Agreement.

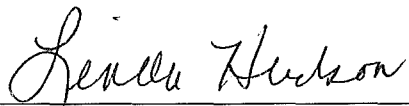
(f) The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to

be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

(g) This Agreement shall be binding upon and inure to the benefit of the **CITY** and the City Commission, its successors and assigns, and shall be binding upon **COX**, her administrators, executors, legatees, heirs, and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

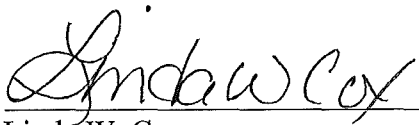
CITY OF FORT PIERCE, FLORIDA

By: 
Linda Hudson, Mayor

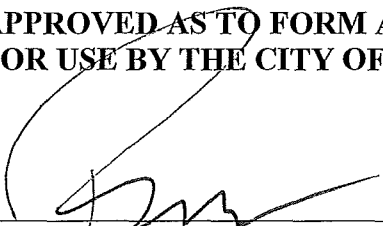
ATTEST:


Anne Satterlee, Interim City Clerk

EMPLOYEE:

By: 
Linda W. Cox

**APPROVED AS TO FORM AND CORRECTNESS
FOR USE BY THE CITY OF FORT PIERCE:**


Robert V. Schwerer, Esq.
City Attorney

EMPLOYEE PERFORMANCE EVALUATIONS

**MANAGEMENT MID-MANAGEMENT NON-BARGAINING
GENERAL INSTRUCTIONS**

1. **PURPOSE OF PERFORMANCE EVALUATION:** To pinpoint strengths and weaknesses, and review past goals and objectives and corresponding accomplishments so as to identify areas where performance can be improved for the benefits of both the employee and the Department /Division and to formulate a practical improvement program of specific challenges.
2. Rate the employee on characteristics pertinent of job performance. Carefully evaluate each of the characteristics separately, based on recurring day-to-day performance since the last review and not on recent or isolated exceptional events. For each characteristic, rate the employee poor, fair, average, good, or excellent using these definitions, and check the appropriate box.

POOR:	Definitely below acceptable standards, performance of job requirements is consistently deficient.
FAIR:	Improvement is needed to meet acceptable standards; performance of job requirement is inconsistent.
AVERAGE:	Meets acceptable standards; performance of job requirement is consistent.
GOOD:	Above acceptable standards; performance of job usually exceeds job requirements.
EXCELLENT:	Outstanding, above acceptable standards; performance consistently exceeds job requirements.

3. Two common mistakes in ratings are: (1) A tendency to rate nearly everyone as “average: on every characteristic instead of being more critical in judgment. The evaluation should use the end of the scale as well as the middle. (2) The “halo effect”, i.e., a tendency to rate the same individual “excellent” on every characteristic or “poor” on every characteristic based on the overall picture one has of the person being evaluated. However, each person has strong and weak points and these should be indicated on the rating scales.
4. The supervisor should discuss the incumbent’s strong points as well as limitations with a view toward improving the employee’s performance.

EMPLOYEE

PERFORMANCE

EVALUATION

MANAGEMENT – MID-MANAGEMENT – NON-BARGAINING

EMPLOYEE

INFORMATION: NAME: Linda Cox DATE: _____

CLASSIFICATION City Clerk

PERIOD COVERED: (Month/Year) FROM: 06/30/14 TO: 06/30/15

PURPOSE OF REPORT: PROBATIONARY { } **ANNUAL { X }** MID-TERM { } SPECIAL { }

POOR FAIR AVERAGE GOOD EXC.

	POOR	FAIR	AVERAGE	GOOD	EXC.
WORK PERFORMANCE:					
KNOWLEDGE: Understanding of Fundamentals, skill, methods and procedures required in present job					
PLANNING: Development of methods and work habits to efficiently perform overall work load.					
APPLICATION: Establishment of a team effort toward departmental goals and objectives.					
ACCURACY: Absence of mistakes and errors in job performance.					
THOROUGHNESS: Attention to details. Completes work assignments in a timely manner.					
QUALITY: Overall quality of work.					
QUANTITY: Overall quantity of work.					
MANAGEMENT PERFORMANCE:					
ORGANIZATION: Ability to organize employees, department and operations. Maintain discipline.					
PERSONNEL SELECTION: Identify job-related Characteristics in prospective discipline.					
TRAINING: Development of personnel training methods in department.					
FOLLOW-UP: Ability to follow-up on assignments, instructions, and schedules.					

Page 2
SUPERVISORY/
MANAGEMENT
PERFORMANCE:

Poor Fair Average Good Exc.

ECONOMY: Ability to control Cost – optimum utilization of resources.					
SAFETY: Orientation toward safety and health standards.					
LEADERSHIP: Establishment of a team effort toward departmental goals and objectives.					
COMMUNICATION: Ensuring that Personnel adequately informed about departmental issues concerns.					
FACTORS AFFECTING JOB PERFORMANCE:					
ADAPTABILITY: Alteration of activities, plans, etc, to accommodate new situations.					
ATTITUDE: Shows interest, enthusiasm and cooperation to achieve common goals.					
ATTENDANCE: Comes to Work on time and does not abuse leave.					
COOPERATION: Working effectively with others to achieve common goals.					
CREATIVENESS; Improvement of methods and procedures by new and innovative ideas.					
EXPRESSION: Written presentation of ideas					
EXPRESSION: Oral presentation of ideas					
INITIATIVE: Self-confident, enthusiastic performance with a minimum of instruction.					
JUDGMENT: Sound judgment and opinion by careful study of available facts and options.					
RELIABILITY: Dependability instills full confidence.					

**OVERALL EVALUATION
IN PRESENT POSITION:**

The supervisor should discuss the incumbent's strong points as well as limitation with a view toward improving the employee's performance.

EMPLOYEE'S STRONGEST AREA ON CONTRIBUTION TO THE JOB:

EMPLOYEE'S WEAKNESS:

DATE _____ RATING SUPERVISOR _____

OVERALL EVALUATION: POOR { } FAIR { } AVERAGE { } GOOD { } EXCELLENT { }

DIVISION DIRECTOR/DEPARTMENT HEAD COMMENTS: _____

DATE _____ SIGNATURE _____

EMPLOYEE'S COMMENTS: _____

MY SIGNATURE DOES NOT NECESSARILY MEAN THAT I AGREE WITH THE RATING. IT DOES, HOWEVER, SIGNIFY REVIEW OF ITS CONTENTS AND ALSO THE OPPORTUNITY TO DISCUSS ANY QUESTION I MIGHT HAVE WITH THE RATING AUTHORITY.

DATE _____ SIGNATURE _____

Is probationary employee recommended for regular employment? YES _____ NO _____

Is employee recommended for extended probation? YES _____ NO _____

City Commission Conference Agenda

Agenda Item # 4. C.

Meeting Date: 07/13/2015

Re: City Manager Performance Evaluation

Submitted For: Robert Bradshaw, City Manager, City Manager

SUBJECT:

Performance Evaluation of Robert J. Bradshaw, City Manager.

Attachments

Robert Bradshaw Employment Agreement

Robert Bradshaw Performance Evaluation Form

Form Review

Form Started By: Jennifer Robinson
Final Approval Date: 07/07/2015

Started On: 07/07/2015 12:09 PM

CITY OF FORT PIERCE, FLORIDA

ROBERT J. BRADSHAW
CITY MANAGER

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT made and entered into this 24th day of September 2012, by and between the **CITY OF FORT PIERCE, FLORIDA**, a municipal corporation, hereafter referred as to "**CITY**" and **ROBERT J. BRADSHAW**, hereafter referred to as "**BRADSHAW**".

WHEREAS, **CITY** desires to secure the services of **BRADSHAW** as City Manager for a minimum of two (2) years from the Effective Date of this agreement and **BRADSHAW** desires to accept such position; and

WHEREAS, **CITY** and **BRADSHAW** intend by this Agreement to provide certain benefits and establish certain conditions of employment to which **BRADSHAW** has agreed.

NOW, THEREFORE, in consideration of the material advantages occurring to the parties and the mutual covenants contained herein, **CITY** and **BRADSHAW** agree with each other as follows:

1. Employment.

BRADSHAW will render full time professional services to **CITY** in the capacity of City Manager of the **CITY** for the initial term of two (2) years, commencing November 1, 2012 (the "Effective Date"), through October 31, 2014. In the event written notice of termination or notice of non-renewal of this Agreement is not given by either party to the other party ninety (90) days prior to the expiration of the term as hereinabove provided, this Agreement shall automatically renew and continue thereafter on a year-to-year basis. **BRADSHAW** agrees to sever ties with his existing employer, and report for work, and the duties and employment of **BRADSHAW** as City Manager shall commence the Effective Date.

BRADSHAW shall devote all of his time, attention, knowledge and skill, solely and exclusively to the business and interest of the City of Fort Pierce, and the public which it

serves. **BRADSHAW** will at all times faithfully, industriously, and diligently perform to the best of his ability all duties that may be required of him by virtue of his position as City Manager, including the performance of all duties set forth in the City Charter, Ordinances, Resolutions and other City policies, and to perform other legally permissible and proper duties and functions to the reasonable satisfaction of the City Commission. In performing such duties, **BRADSHAW** further agrees to be subject to the ICMA Code of Ethics, and to otherwise devote full time and attention to his work as City Manager. Nothing herein shall prohibit **BRADSHAW** from maintaining membership in or participating in private social or civic endeavors that do not interfere or detract from his performance of the terms of this Agreement. In the event **BRADSHAW** makes formal application for full-time employment elsewhere while serving as City Manager, he shall be required to provide written notice to the City Commission simultaneously with such application or submittal.

2. Compensation.

In consideration for these services as City Manager, **CITY** agrees to pay **BRADSHAW** an annual base salary of ONE-HUNDRED TWENTY-EIGHT THOUSAND DOLLARS (\$128,000.00) per annum, payable in bi-weekly installments, or such higher figure as may be negotiated after a mandatory six-month evaluation of **BRADSHAW's** performance by the City Commission. Base annual salary adjustments, including cost of living increases, for each subsequent year during the term of this Agreement shall be negotiated between the parties on an annual basis.

The **CITY** agrees that it will not, at any time during the term of this Agreement, reduce **BRADSHAW's** base salary or other financial benefits in a greater percentage than an applicable across the board reduction for all employees of the **CITY**.

3. Performance Evaluations.

The City Commission shall, upon the expiration of six (6) months of the Effective Date of this Agreement, and on an annual basis thereafter, evaluate **BRADSHAW's**

performance as City Manager. These performance evaluations shall occur during the calendar month of May of each year, and the matter of the performance evaluation shall be agendaed by the City Manager, to be discussed by the City Commission, at the first City Manager Conference Agenda in May of each year of this Agreement. These performance reviews shall consider continuing management objectives and responsibilities as well as achievement of key specific objectives as mutually agreed upon by City Commission and **BRADSHAW**.

Should it be determined that **BRADSHAW** was successful in his overall performance, and if the Commission, in its sole discretion, determines that the fiscal condition of the **CITY** is sufficient, the City Commission will consider **BRADSHAW's** compensation and benefits, and endeavor to maintain them at a level commensurate with his peers in the city management profession in similarly situated Florida cities and the rate of general inflation in the economy.

Benefits.

In addition to annual compensation specified above, the **CITY** agrees to provide **BRADSHAW** with the following benefits:

(a) **BRADSHAW** shall be entitled to receive the same vacation, sick leave, and holiday time as defined in the City of Fort Pierce Personnel Rules and Regulations, including provisions governing accrual and payment thereof on termination of employment.

(b) Paid attendance at the ICMA annual conference at a rate agreed upon by the City Commission and **BRADSHAW**.

(c) Lease or car allowance at \$350.00 per month, or such other rate agreed upon by the City Commission.

(d) Membership dues to professional associations and societies and to such service organizations and clubs of which **BRADSHAW** is a member, subject to the approval of the City Commission.

(e) Comprehensive health and major medical insurance equal to that which is provided to other City employees.

(f) Retirement benefits as provided to City Employees; provided, however, if

BRADSHAW elects not to participate as a member under the **CITY's** retirement plan, the **CITY** shall contribute a sum to his ICMA deferred compensation plan (or other plan designed by **BRADSHAW**) equal to the same percentage contribution, up to the maximum allowed by law, as the **CITY** would have contributed to **BRADSHAW's** retirement under the **CITY's** plan.

5. **Relocation Expenses.**

The **CITY** will pay **BRADSHAW** the sum of SIX THOUSAND FIVE HUNDRED DOLLARS (\$6,500.00) for the expenses of moving **BRADSHAW, BRADSHAW's** family, and **BRADSHAW's** personal property from **BRADSHAW's** current residence to the **CITY**, including packing, moving, truck rental, storage costs, unpacking, and insurance charges, and miscellaneous charges incurred or expended by him in effecting this move, said sum to also be intended to cover temporary housing for **BRADSHAW** and his family within the **CITY** for the period of time between his initial reporting for work on or before the Effective Date and the date he secures permanent housing.

6. **Termination.**

A. At all times during the term of this Agreement, **BRADSHAW** shall be deemed an employee-at-will, and may be terminated at any time, with or without cause. For purposes of this Agreement, termination shall occur upon the happening of any of the following events:

(a) A majority vote of the entire City Commission at a duly authorized public meeting, with or without cause, at the sole discretion of the City Commission.

(b) If the **CITY**, its citizens, or legislature amends any provision of the Charter or Code substantially changing the form of government directly pertaining to the role, powers, duties, authority and responsibilities of **BRADSHAW** as City Manager, **BRADSHAW** shall have the right to declare that such amendments constitute termination; or

(c) If **BRADSHAW** resigns following a formal offer to accept resignation made by the majority of the entire City Commission at a duly authorized public meeting.

7. **Severance.** Except as provided in this Agreement, severance will be paid to **BRADSHAW** when employment is terminated as defined in Paragraph 6 above. Upon termination, all rights, duties and obligations of both parties shall cease except that the **CITY** shall continue to pay **BRADSHAW** his then annual base salary for Ninety (90) consecutive days thereafter, and the **CITY** shall also maintain **BRADSHAW**'s life insurance and major medical insurance coverage paid up and in effect during such period. **BRADSHAW** shall also be compensated for all accrued sick leave and vacation time payable upon termination of employment as provided in the Personnel Rules and Regulations. During any time severance is being paid, **BRADSHAW** shall not be required to perform any duties for the City or come to the City.

The severance provisions set forth herein shall not apply and the City shall not be obligated to pay the Ninety (90) days severance in the event **BRADSHAW** is terminated for cause. "Cause" shall be defined as either conviction of any felony or any misdemeanor involving moral turpitude, commission of any act of fraud involving or affecting the City, willful failure to perform the duties of City Manager, or material breach by **BRADSHAW** of any duties or obligations under this Agreement and failure to cure such failure or breach after receipt of reasonable written notice, then, in that event, CITY shall have no obligation to pay the aggregate severance sum designated in this paragraph.

8. **Attendance at Meetings.** The **CITY** agrees to permit **BRADSHAW** to be absent from the **CITY** during working days to attend professional meetings and to attend to such outside professional duties in the city management field as have been mutually agreed upon between him and the City Commission. Attendance at such approved meetings and accomplishment of approved professional duties shall be fully compensated service time and shall not be considered vacation time. The **CITY** shall reimburse **BRADSHAW** for all reasonable expenses incurred by him incident to attendance at approved professional meetings; provided, however, that such reimbursement is appropriate and within the limits of the City's budget.

8. **Best Efforts of Employee.**

BRADSHAW agrees that he will at all times faithfully, industriously and to the best of his ability, experience and talents, perform all the duties which may be required of and from him pursuant to the express and implicit terms hereof, to the reasonable satisfaction of **CITY**. **BRADSHAW** further agrees that he will continue his education and training so that he will keep up with or exceed education requirements of his position. Such duties shall be rendered at Fort Pierce, St. Lucie County, Florida, and at such other places as **CITY** shall in good faith require, or as the interest, needs or opportunity of **CITY** shall require.

9. **Disability.**

If **BRADSHAW** is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of either eight (8) successive weeks beyond any accrued sick leave, or for twenty (20) working days over a sixty (60) working day period, **CITY** shall have the option to terminate this Agreement, subject to the severance pay requirements of Paragraph 6. However, **BRADSHAW** shall be compensated for any accrued sick leave, vacation, holidays, and other accrued benefits.

10. **Residency.**

BRADSHAW shall, at all times, maintain permanent residency within the City of Fort Pierce, Florida, during his term as City Manager.

11. **Employee At-Will.**

BRADSHAW is an employee-at-will and works at the pleasure of the **CITY** who may, at any time and without showing cause, terminate this Employment Agreement.

12. **Liability Claims.**

The **CITY** shall defend and save harmless **BRADSHAW**, but only to the limits of sovereign immunity, against any tort, professional liability claim or demand or other legal claim or action, whether groundless or otherwise, arising out of an alleged act or omission

occurring in or arising out of the good faith performance of **BRADSHAW**'s duties as City Manager of the City of Fort Pierce. However, this covenant shall not apply to acts outside the scope of **BRADSHAW**'s employment or services or for claims for punitive damages. The **CITY** will have the authority to compromise and settle any such claim or suit within the scope of **BRADSHAW**'s employment and pay the amount of any settlement or judgment rendered thereon. To the maximum extent permitted by law, the **CITY** and **BRADSHAW** shall rely upon the doctrine of sovereign immunity and the provisions of Section 768.28, Florida Statutes, or other applicable law.

13. **Voluntary Resignation**. In the event **BRADSHAW** voluntarily resigns his position with the **CITY**, **BRADSHAW** shall provide a minimum ninety (90) days written notice unless the parties agree otherwise. Unless such resignation follows a formal offer to accept resignation made by the majority of the entire City Commission as specified in Paragraph 5(c) above, **BRADSHAW** shall not be entitled to nor shall the **CITY** be liable to pay severance if **BRADSHAW** resigns.

14. **General Provisions**. The following general provisions shall govern this Agreement:

(a) This Agreement shall be governed in accordance with the laws of the State of Florida.

(b) Jurisdiction over any dispute arising under this Agreement, and the venue thereof, shall lie in the Circuit Court of the Nineteenth Judicial Circuit, in and for St. Lucie County, Florida.

(c) This Agreement shall become effective immediately upon execution, and supersedes and replaces any prior written employment agreement.

(d) This Agreement constitutes the entire agreement and understanding between the parties and contains all of the agreements between them with respect to the subject matter hereof, and supersedes any and all other agreements or contracts, either oral or

written, between the parties with respect to the subject matter hereof.

(e) The parties by mutual written agreement may amend any provision of this Agreement during the life of the agreement by document approved and signed with the same formalities as this Agreement. Such amendments will be incorporated and made a part of this Agreement.

(f) The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

(g) This Agreement shall be binding upon and inure to the benefit of the **CITY** and the City Commission, its successors and assigns, and shall be binding upon **BRADSHAW**, his administrators, executors, legatees, heirs, and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

CITY OF FORT PIERCE, FLORIDA

By: _____


Robert J. Benton, Mayor

ATTEST:

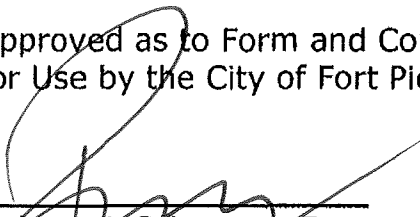


Cassandra Steele, City Clerk

EMPLOYEE: 

Robert J. Bradshaw

Approved as to Form and Correctness
for Use by the City of Fort Pierce:


Robert V. Schwerer, Esq.
City Attorney

EMPLOYEE PERFORMANCE EVALUATIONS

**MANAGEMENT MID-MANAGEMENT NON-BARGAINING
GENERAL INSTRUCTIONS**

1. **PURPOSE OF PERFORMANCE EVALUATION:** To pinpoint strengths and weaknesses, and review past goals and objectives and corresponding accomplishments so as to identify areas where performance can be improved for the benefits of both the employee and the Department /Division and to formulate a practical improvement program of specific challenges.
2. Rate the employee on characteristics pertinent of job performance. Carefully evaluate each of the characteristics separately, based on recurring day-to-day performance since the last review and not on recent or isolated exceptional events. For each characteristic, rate the employee poor, fair, average, good, or excellent using these definitions, and check the appropriate box.

POOR:	Definitely below acceptable standards, performance of job requirements is consistently deficient.
FAIR:	Improvement is needed to meet acceptable standards; performance of job requirement is inconsistent.
AVERAGE:	Meets acceptable standards; performance of job requirement is consistent.
GOOD:	Above acceptable standards; performance of job usually exceeds job requirements.
EXCELLENT:	Outstanding, above acceptable standards; performance consistently exceeds job requirements.

3. Two common mistakes in ratings are: (1) A tendency to rate nearly everyone as “average: on every characteristic instead of being more critical in judgment. The evaluation should use the end of the scale as well as the middle. (2) The “halo effect”, i.e., a tendency to rate the same individual “excellent” on every characteristic or “poor” on every characteristic based on the overall picture one has of the person being evaluated. However, each person has strong and weak points and these should be indicated on the rating scales.
4. The supervisor should discuss the incumbent’s strong points as well as limitations with a view toward improving the employee’s performance.

EMPLOYEE

PERFORMANCE

EVALUATION

MANAGEMENT – MID-MANAGEMENT – NON-BARGAINING

EMPLOYEE

INFORMATION: NAME: Robert Bradshaw DATE: _____

CLASSIFICATION City Manager

PERIOD COVERED: (Month/Year) FROM: 06/30/14 TO: 06/30/15

PURPOSE OF REPORT: PROBATIONARY { } **ANNUAL [X]** MID-TERM { } SPECIAL { }

POOR FAIR AVERAGE GOOD EXC.

	POOR	FAIR	AVERAGE	GOOD	EXC.
WORK PERFORMANCE:					
KNOWLEDGE: Understanding of Fundamentals, skill, methods and procedures required in present job					
PLANNING: Development of methods and work habits to efficiently perform overall work load.					
APPLICATION: Establishment of a team effort toward departmental goals and objectives.					
ACCURACY: Absence of mistakes and errors in job performance.					
THOROUGHNESS: Attention to details. Completes work assignments in a timely manner.					
QUALITY: Overall quality of work.					
QUANTITY: Overall quantity of work.					
MANAGEMENT PERFORMANCE:					
ORGANIZATION: Ability to organize employees, department and operations. Maintain discipline.					
PERSONNEL SELECTION: Identify job-related Characteristics in prospective discipline.					
TRAINING: Development of personnel training methods in department.					
FOLLOW-UP: Ability to follow-up on assignments, instructions, and schedules.					

Page 2
SUPERVISORY/
MANAGEMENT
PERFORMANCE:

Poor Fair Average Good Exc.

ECONOMY: Ability to control Cost – optimum utilization of resources.					
SAFETY: Orientation toward safety and health standards.					
LEADERSHIP: Establishment of a team effort toward departmental goals and objectives.					
COMMUNICATION: Ensuring that Personnel adequately informed about departmental issues concerns.					
<hr/>					
FACTORS AFFECTING JOB PERFORMANCE:					
ADAPTABILITY: Alteration of activities, plans, etc, to accommodate new situations.					
ATTITUDE: Shows interest, enthusiasm and cooperation to achieve common goals.					
ATTENDANCE: Comes to Work on time and does not abuse leave.					
COOPERATION: Working effectively with others to achieve common goals.					
CREATIVENESS; Improvement of methods and procedures by new and innovative ideas.					
EXPRESSION: Written presentation of ideas					
EXPRESSION: Oral presentation of ideas					
INITIATIVE: Self-confident, enthusiastic performance with a minimum of instruction.					
JUDGMENT: Sound judgment and opinion by careful study of available facts and options.					
RELIABILITY: Dependability instills full confidence.					

**OVERALL EVALUATION
IN PRESENT POSITION:**

The supervisor should discuss the incumbent's strong points as well as limitation with a view toward improving the employee's performance.

EMPLOYEE'S STRONGEST AREA ON CONTRIBUTION TO THE JOB:

EMPLOYEE'S WEAKNESS:

DATE _____ RATING SUPERVISOR _____

OVERALL EVALUATION: POOR { } FAIR { } AVERAGE { } GOOD { } EXCELLENT { }

DIVISION DIRECTOR/DEPARTMENT HEAD COMMENTS: _____

DATE _____ SIGNATURE _____

EMPLOYEE'S COMMENTS: _____

MY SIGNATURE DOES NOT NECESSARILY MEAN THAT I AGREE WITH THE RATING. IT DOES, HOWEVER, SIGNIFY REVIEW OF ITS CONTENTS AND ALSO THE OPPORTUNITY TO DISCUSS ANY QUESTION I MIGHT HAVE WITH THE RATING AUTHORITY.

DATE _____ SIGNATURE _____

Is probationary employee recommended for regular employment? YES _____ NO _____

Is employee recommended for extended probation? YES _____ NO _____

City Commission Conference Agenda

Agenda Item # 4. D.

Meeting Date: 07/13/2015

Re: IMLA Final Report

Submitted For: Robert Bradshaw, City Manager, City Manager

SUBJECT:

Discussion of International Municipal Lawyers Association (IMLA) Report

Attachments

[IMLA Final Report](#)

Form Review

Form Started By: Jennifer Robinson

Started On: 07/07/2015 12:14 PM

Final Approval Date: 07/07/2015



IMLA Report to the City of Ft. Pierce: Study of Legal Services

Introduction

IMLA (International Municipal Lawyers Association) is pleased to have this opportunity to be of service to the City of Ft. Pierce, Florida (the “City” or “Ft. Pierce”). As the nation’s largest organization devoted solely to government lawyers, IMLA has a deep understanding of the challenges and opportunities facing legal departments in cities, counties and other municipalities.

Scope

Ft. Pierce has requested that IMLA provide an analysis to help it make optimal use of its legal budget. Specifically, Ft. Pierce has asked IMLA to review whether it can reduce its costs for legal services or make more efficient use of its budget for those services. Accordingly, after meeting with City Commission members and staff and hearing concerns about transparency and accountability, IMLA has focused on ways in which the City might make its legal services more efficient, transparent and accountable without jeopardizing the City’s legal position.

Summary of Findings and Recommendations

As described in greater detail below, IMLA’s findings and recommendations include the following:

- Ft. Pierce’s City Attorney and assistant city attorneys are extremely competent and knowledgeable municipal lawyers having a wealth and breadth of experience in a variety of legal issues that allow them to provide the City with thoughtful legal advice.
- Ft. Pierce is paying slightly lower hourly rates for outside law firm City Attorney services than the regional average, but by absorbing overhead costs the rates are slightly higher than they appear;
- Ft. Pierce is paying slightly more than comparable cities for legal services on a per-constituent basis;
- Ft. Pierce is operating without a formal written contract with its outside law firm City Attorney, which is not the norm;
- The lack of transparency in billing prevents the City’s stakeholders from being confident that they are receiving a full measure of legal services in exchange for the charges allocated to their departments;
- Management has failed to exercise control of the City’s legal work;
- City should put in place a formal written contract with its outside law firm City Attorney requiring detailed and accurate billing, utilizing an agreed-upon menu of matters and recording time and describing in greater detail the expectations and responsibilities of the parties;
- City should require its Manager and its City Attorney to coordinate the legal matters handled by the City Attorney in a more formal process; including, deadlines, priorities and they should report status for



IMLA Report to the City of Ft. Pierce Study of Legal Services

projects and litigation on a regular basis and in a manner that will allow the Commission to better supervise both the Manager and the Attorney¹;

- City should invest in (or require its outside law firm City Attorney to provide) sophisticated matter management software to facilitate the transparency and detail required to follow IMLA's recommendations;

- City should include a greater number and variety of metrics to measure the effectiveness of the services provided by its City Attorney;

Process

In producing this report, IMLA undertook the following steps:

1. IMLA met with stakeholders within the Ft. Pierce government, including the Mayor and three Commission members to obtain a more clear understanding of their views and expectations regarding legal services. The stakeholders also included the City Attorney, City Manager, Deputy City Manager, City Clerk and several department heads.
2. IMLA sought and received representative legal bills from other municipalities in Florida to evaluate what information is routinely included in billing statements.
3. IMLA reviewed information from its most recent salary survey for cities that are similar in size to Ft. Pierce using a range of population from 35,000 to 55,000 to determine average and mean cost of legal services.
4. IMLA and the City Attorney discussed the procedures followed by the law office in handling matters and litigation and discussed several specific matters.
5. IMLA requested information from the City Manager regarding lists of projects discussed at staff meetings since November 2014. IMLA did not receive a response to this request.
6. IMLA discussed a survey with the City Manager and Deputy City Manager to measure satisfaction of the staff with the City Attorney's office and prepared and forwarded to the City Manager and Deputy such a survey for distribution to staff.
7. IMLA reviewed the audio file of the latest City Attorney evaluation from May 12, 2014.
8. IMLA forwarded a draft of its report to the Mayor, the City Manager and the City Attorney.
9. IMLA received responses to the draft report from the Mayor and the City Attorney and has included the City Attorney's response as an appendix to this report (Exhibit G) and has

¹ The City Attorney states that this coordination has been occurring for several years and directs attention to a memorandum setting out a requirement that all work from department staff flow through the City Manager. While the memorandum exists, if there were effective coordination between the City Manager and the City Attorney the complaints from the staff about projects languishing and other frustrations expressed by the staff would not exist. For that reason, IMLA believes that the Commission should require that the City Manager and City Attorney regularly offer it evidence of that coordination.



IMLA Report to the City of Ft. Pierce Study of Legal Services

modified the report in part based on the responses it received and as a result of further review.

Recommendations

- Commission should enter a contract with the law firm for legal services.
 - If all or a portion of the contract calls for payment based on hourly fees, Commission should require monthly bills reflecting the work performed, optimally in tenth of an hour increments (or less) rounded to the nearest tenth of an hour, detailing the work performed without jeopardizing the City's interests.
 - Commission should require the law firm to provide a monthly status report.
- Commission should require the City Manager to review and make payment recommendations on the monthly bills in conjunction with the status report.
- The City Attorney should institute procedures, such as interviews (i.e., discuss with department staff their satisfaction regarding the attorney's performance and seek suggestions for improved efficiencies, etc.), to monitor client satisfaction on a continuous basis.
- Commission should develop and implement a customer satisfaction survey and procedure to measure satisfaction with performance of the City Attorney in conjunction with similar surveys for other departments.
- Commission should develop additional performance measures for the law office and monitor performance.
- Commission should require the City Manager and City Attorney to develop procedures to ensure timely and efficient use of the City Attorney services:
 - City Manager and City Attorney should negotiate deadlines for review and performance of work:
 - On routine projects as a matter of routine; i.e., establish a certain amount of time within which a routine matter should be concluded after referral to the City Attorney; and
 - On more complex projects based on the time frame to meet the City's goals for implementation.
 - City Manager should monitor work being sent to attorney and attorney's response
 - Staff meetings should include report from attorney on status of projects to allow discussion of deadlines and problems and include a discussion of



IMLA Report to the City of Ft. Pierce Study of Legal Services

- staff projects to insure that those requiring legal review are properly forwarded to the attorney; and
 - City Manager should ensure staff and attorney meet to resolve issues to bring projects to completion.
- City Manager and City Attorney should each be held accountable to identify
 - Methods to reduce costs;
 - Increase efficiencies; and
 - Decrease time lag.
- Commission should require City Manager to monitor litigation matters:
 - Review, determine and direct extent of City Attorney involvement in insurance defense matters; and
 - Require estimates for costs of defense and make cost/benefit analysis of defense strategy to make recommendations to Commission.
- Manager should direct that a procedure be established to allow the City Attorney to use the City's IT system in coordination with its needs to insure the City Attorney's ability to serve the City from inside and outside city hall.

Findings

Despite the long list of successful projects and matters² handled by the City Attorney and the extraordinary success rate in litigation handled by the City attorney, a repeated concern expressed by the various stakeholders dealt with accountability and transparency. All recognized that the City Attorney and the legal staff might be the target of unfair criticism by the public and staff, but all believed that a more transparent and accountable system of legal billing would benefit the public and the City. In large measure, the stakeholders believe that the City needs a better system of evaluating its legal needs and services. The departmental staff each expressed concern about various projects that they perceived as languishing in the attorneys' office³. Those staff members whose budgets are billed for attorney services expressed concerns that they are not provided an opportunity to review the bills and report on their accuracy as they must do for other contractors⁴. The City Attorney can provide detailed explanations of how each file is handled and its current status upon request and provides the

² The City Attorney Activity Report for FY 2014 is Exhibit K.

³ Similar comments were made during the attorney's evaluation on May 12, 2014.

⁴ In a conversation with the City Attorney about this issue, he points out that under the City's budget and finance system, the departments' budgets do not get billed for legal services, those services are budgeted as part of the City's annual budgetary process and while Enterprise Fund money may pay fund a portion of the City Attorney's budget, the departments are not actually billed for legal services through invoicing.



IMLA Report to the City of Ft. Pierce Study of Legal Services

Commission and City Manager a quarterly update on various litigation and matters that have been handled by the office and which are still pending. However, the Commission and staff share a desire for increased communications with their counsel regarding outstanding matters.

The general impression arising from our meetings with stakeholders offers both a positive and a negative perception. On the positive side, the City Attorney offers quality legal services through a staff of highly skilled attorneys and paralegals and the people of Ft. Pierce are blessed with a dedicated team of attorneys and a management team that is committed to making the lives of the people of Ft. Pierce better by enhancing their quality of life and operating an efficient and cost effective government. Each seems to share a love for the City and its success. On the negative side, there seems to be a disconnect between the perception of what legal services are being delivered versus what legal services are being received, how the process works and how the fees are derived. To some extent management and the law office each seem to be working in their own silos, without sufficient coordination. Management does not seem to exercise oversight of work assigned to the City Attorney, nor insure timely performance or coordination of service.

Ironically, Ft. Pierce does not have a formal written contract⁵ with the City Attorney or any of the assistant city attorneys or the law firm by which each is employed. Instead, the attorney client relationship rests on the Charter and a series of resolutions appointing the individuals to the office that they hold and upon understandings developed over the years⁶. In our experience this arrangement is quite unusual. While we know of many cities that appoint attorneys to be their city attorney or an assistant city attorney without a contract, these scenarios generally involve attorneys who are employees of the city and who are covered in terms of salary and benefits by the personnel policies of the city. Where the city attorney is not an employee but an independent contractor, in our experience he or she invariably has a contract with the city that details the terms of the engagement and if it is a law firm that acts as the city attorney, the city has a contract with the firm⁷. Ft. Pierce should design and enter into a contract for legal services that details the terms of payment, the duties to be performed and how the City will be billed, among other terms. In doing so it should seek the help of an attorney who is not associated with the Firm.

⁵ The City Attorney correctly points out that "While it is correct there is no one single document comprising the "contract", there is nevertheless an agreement and mutual understanding of the terms and conditions of which the City Attorney delivers legal services to the City and his compensation therefore."

⁶ The City Attorney correctly points out that the position of the City Attorney constitutes a public office in Florida.

⁷ In researching for this project we note that Deland does not have a written contract with its attorney; the arrangement there involves a lump sum payment to the attorney and is not based on hourly billing. Exhibit F.



IMLA Report to the City of Ft. Pierce Study of Legal Services

The Firm charges \$135 per hour for the City Attorney, \$125 per hour for the assistant city attorneys and \$55 per hour for the paralegals. The attorneys' fees are significantly less than what appears to be the prevailing hourly rate in the area⁸. However, the City underwrites a portion of each of these fees.⁹ For example, a private practitioner generally must include in legal fees charges for overhead that should be expected to include office space, insurance¹⁰, furniture and equipment, IT services, research services, library, copying and secretarial and administrative support. Ft. Pierce picks up the tab on many of these costs in the City Attorney's budget. Thus, the fees are difficult to compare to fees that include this overhead. Because the Firm also supports offices off the City's property and some services are provided by attorneys and employees at the off-site location, some of the fee derivation includes overhead, making a comparison difficult.¹¹

⁸ The City Attorney's response details information the City Attorney obtained regarding prevailing rates in the area and they are significantly higher than the City Attorney's rates.

⁹ The City Attorney notes: "In actuality, the City "subsidizes" very little overhead to have any real effect on billing rates. For example, the theoretical value of overhead attributable to the City Hall Office and the non-fee portion of the City Attorney budget has been calculated to be less than \$30,000 combined. Given that a minimum of 5,000 attorney-hours are committed to City work annually, this would arguably produce a \$6 per hour "subsidy" increase in rates, again assuming there is in fact a true subsidy. (Footnote omitted.)" IMLA recognizes that the cost of overhead is affected by the number of hours included in the billing so that as more hours are billed there will likely be a reduction in the fixed overhead costs as a percentage of the hourly billing rate.

¹⁰ The City Attorney points out that the Firm has malpractice insurance in the amount of \$2 million that protects Ft. Pierce and if Ft. Pierce moved to in-house counsel it would lose this protection. IMLA agrees with the City Attorney and believes that malpractice insurance is an important consideration in a determination of whether to use in-house or outside counsel.

¹¹ The City Attorney notes: "Additionally, it should be noted that, at any given time, the City Attorney's workload requires the representation of the City in a substantial number of claims and lawsuits. Activity reports document that these legal services and the number of claims and controversies being handled comprise a large percentage of the hours billed to the City. As IMLA hopefully knows, litigation is substantially different than routine administrative matters (e.g. preparing for and attending myriad board meetings, preparing ordinances and resolutions, contract review, etc.). At current billing rates of \$135 for the City Attorney, \$125 for Assistant City Attorneys, and \$55 for Paralegal, the City enjoys a "blended" billing rate far below even the government discounted rate." IMLA agrees that some matters in litigation generally require a higher degree of skill than routine administrative matters. At the same time many of the matters in the Activity reports do not appear to be these types of complex litigation. Generally, insurance defense counsel are paid significantly less per hour than attorneys handling other types of defense and code enforcement, routine foreclosures and routine bankruptcies do not generally command nor demand the higher fees to which the City Attorney refers.



IMLA Report to the City of Ft. Pierce Study of Legal Services

While it appears likely that the City Attorney's fees are significantly below prevailing rates; without understanding how much the City's contribution to the City Attorney's services supplants overhead and how much overhead the City Attorney devotes to the City's work and how much work is devoted to each matter the City cannot effectively compare its rates with prevailing rates for the matters handled.

Rather than specify how much time the timekeepers¹² charge to specific tasks, the City Attorney lumps all the work it does for the month into a single block of activity and details how much of that activity was performed by the individual timekeepers.¹³ In discussing how work and time are assigned, the City Attorney advises that the City Attorney determines how much time can be billed based on the budget allotment for attorney services and effectively divides that time up by month, week and day. The result is that on a given day an attorney or paralegal may be allotted 5 hours of duty and on another day 8 hours and on another 1 hour.¹⁴ In essence the schedule may or may not be the same for each day, but over the course of the year, the schedule is designed to equal the amount of time allowed by the budget based on the Firm's billable hours. In planning the work, the City Attorney assigns the attorneys and paralegals sufficient work to fill their daily time block in conjunction with what the City Attorney perceives to be deadlines set by management, the Commission and litigation. If a new case or a project comes in that requires immediate service, the City Attorney amends the daily plan to adapt to the new work and the higher priorities of the work. At the end of the day, each timekeeper rounds out their day to the closest one half hour.¹⁵ This system results in monthly bills that tend to be relatively consistent¹⁶.

¹² In law firm billing a timekeeper is a person who performs activities for a client at a specified rate per hour and who keeps the time for their work.

¹³ Attached as Exhibit D are representative bills from the City Attorney.

¹⁴ This description of how a schedule is designed is not intended to replicate an actual schedule, but we use it to describe how the process works.

¹⁵ Thus, if the timekeeper had a two hour block and worked two hours and ten minutes the time billed would be two hours and if the time worked was two hours and twenty minutes, the time billed would be two and a half hours.

¹⁶ The City Attorney explains that there is no dearth of work so that the time each day is filled by work that must be performed. Thus, the system does not lend itself easily to reducing legal costs absent some decision by the Commission to exercise more control of what legal services are to be provided and by having the City Manager more actively involved in reviewing the legal bills and services and including more specific detail regarding the tasks performed, when they are performed and the time spent on those tasks.



IMLA Report to the City of Ft. Pierce Study of Legal Services

According to the City Attorney the City Manager's policy requires all non-litigation work to flow through the City Manager before reaching the City Attorney, except for routine matters. Despite this policy, many projects (ordinance drafting, contract drafting, policy review and drafting, etc.) seem to reach the City Attorney without first going through the City Manager. Some of the projects that department directors described as languishing in the City Attorney's office seem to fit this category and may have suffered from a lack of clear direction regarding how they fit in the Commission's or the City Manager's goals. In some, the City Attorney's office worked on the projects and spent considerable time passing comments back and forth between department staff before ultimately developing a final product. To some extent it appeared in at least one of these projects that the relationship between the attorney's office and the department staff soured. Ultimately, the process seems to need more involvement by the City Manager in setting deadlines for legal review and for ensuring the projects that go to the attorney fit into the Manager's and Commission's goals including developing ways to reduce the amount of back and forth that occurs without either the attorney or staff fully understanding what each is saying. As an example, in Ft. Pierce departmental staff draft ordinances and contracts and submit them for the attorney's legal review. Most are handled expeditiously and the process works well¹⁷. However, some are more complicated and these are the ones that seem to languish. Our view in looking at memos going back and forth on one project leads to the conclusion that neither the attorney nor staff member completely understood what the other was explaining and that a face to face meeting might have helped. Similarly, some of the issues were policy issues that needed to be addressed as business decisions by the Manager or by the Commission and the system did not provide for that to happen. If the City does not want projects to languish (even the few that do¹⁸), it needs to establish a mechanism to assure a timely resolution of the legal review. For that both the Manager and the Attorney need to be accountable.

It appears that when departments forward work to the City Attorney, the City Attorney reviews the referral, opens a file and assigns the matter to attorneys or paralegals to handle. To some extent the process includes unnecessary delays and expense associated with the assignment process that could be removed by creating workflow procedures that allow routine work and specific types of matters to be assigned and files opened without the City Attorney reviewing

¹⁷ In some instances IMLA reviewed email responses that were almost instantaneous to questions posed by staff to the attorney. Where projects languish, the lack of ownership of the project seems the most likely culprit for the delay and can be solved by a better system of coordination and reporting by both the Manager and the Attorney.

¹⁸ While most projects seem to move smoothly, the City needs to put in place a management driven process that sets priorities, deadlines, provides transparency and holds appropriate staff, either departmental or attorney, accountable for the project and the process.



IMLA Report to the City of Ft. Pierce Study of Legal Services

each matter. For example, some work routinely processed by a paralegal could be processed and reviewed by an attorney without the formality of the City Attorney first reviewing the matter, opening the file and assigning the work.¹⁹

The appointed City Attorney and Assistant City Attorneys are all highly skilled and competent attorneys with significant experience in municipal law. While conversations and review of work have been necessarily brief, we believe that Ft. Pierce is very fortunate in having the quality of legal counsel that it does. To some extent this quality and experience also creates a hurdle to reducing the City's legal costs. As each of the current attorneys brings a sterling reputation for legal skill to the City's work, the result is that the cost of that work is higher than if the Firm also included first year associates and less experienced attorneys assigned to the City's work. Typically, in an in-house setting less experienced lawyers drawing significantly lower salaries enable a city to reduce its costs of legal services. For example, a new admittee might be expected to earn \$60,000 or less and a person having five years of experience somewhere around \$85,000.²⁰ If the Firm were able to hire a new admittee or less seasoned associate to handle some of the less complex matters and set rates at an accompanying lower schedule, the City's costs might be decreased.

Based on our review and these findings, IMLA recommends that the Commission and staff work together to, establish a reporting hierarchy for legal services; determine a process for resolving the difference between business requirements and legal requirements and assuring conflict resolution when departmental interests differ between the staff and the attorneys; establish a mechanism to report and manage work flow and provide feedback; develop an evaluation mechanism to measure how clients (Commission, Manager, staff, board) feel about the services being provided by the City Attorney; determine acceptable service levels, ratings and benchmarks to guide a review of the legal services being provided and offer some

¹⁹ The City Attorney explains that he only opens files that are new and that routine and recurring projects go directly to the paralegals and assistant city attorneys pointing out that in its Draft Report IMLA described "a perceived process whereby the City Attorney engages in "prior review" of matters before making assignments in the office. This is correct, but only occurs with new projects or lawsuits that are not within the primary responsibility or recurring routine matters which the Assistant City Attorneys or Paralegals handle directly." (Footnote omitted.) IMLA reviewed a description provided by the City Attorney of a matter involving the release of a lien. (See: Exhibit "E") At least for that matter, the process appeared to follow the description that IMLA provides in its Report. A more detailed billing procedure that IMLA recommends could help to determine whether the lien release matter that IMLA reviewed fell outside the norm or constituted the norm.

²⁰ Using the calculations described later in this report those amounts work out to \$49 per hour and \$69 per hour respectively for in-house counsel at Ft. Pierce.



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suggestions for establishing benchmarks, evaluations and monitoring the legal services being provided.

The City Attorney responded that surveys seeking to determine how the City Attorney is perceived to perform are not the norm in Florida. IMLA agrees but believes that the introduction of a survey could help the City Commission and the City Attorney determine how better to deliver services to City staff and the Commission. Some communities use surveys effectively and they will likely become more prevalent. Indeed, tools such as “Yelp” enable people to evaluate services that cross multiple disciplines and types of service and have become routine throughout the economy. People evaluate the medical profession through “healthgrades.com” and various platforms offer evaluative tools for private attorneys. Rather than singling out the City Attorney, the Commission should consider implementing a process that allows it to similarly seek information about how other departments are perceived to perform. Ultimately, the process could include reaching out to residents to evaluate the City’s performance although the City’s size may be sufficiently small that such an exercise is unnecessary. An internal survey of the City staff regarding the delivery of legal services will help both the Commission and City Attorney analyze service delivery.

Comparability – Population and Finances

IMLA’s contract did not include a study of whether the City should consider an in-house attorney as opposed to its current service delivery. Based on the block billing IMLA believed that it would be too difficult to make a recommendation without having a clear idea of what the City attorney’s work involves. Because the billing structure makes it difficult to determine the amount of work that is routine as compared with work that would be farmed out even if the City had in-house counsel, the City needs to develop a system to better understand what projects and work it is spending its legal budget on. Estimating costs for an in-house counsel can be difficult as salaries can range based on years of experience and the prevailing salaries in the area. Assuming a salary of \$200,000 and the City’s current benefit rate of 46% of salary the City’s cost for one attorney would be roughly \$292,000; if the salary were \$150,000 the cost including benefits could be projected at roughly \$219,000²¹. A full time attorney would be expected to devote 40 hours per week less vacation, holiday and sick time plus time for

²¹ These figures are for salary only and do not include overhead. Because Ft. Pierce already pays most of the overhead associated with its legal services the per hour figure should provide a fair comparison.



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continuing legal education and other business related leave, resulting in roughly 1800²² hours of service per year. So for an attorney paid a salary of \$200,000 plus benefits at 46% of salary, the City would be paying \$162 per hour. At a salary of \$150,000 plus benefits at 46% of salary, the City would be paying \$122 per hour. As mentioned previously, the City could expect to pay less to less senior attorneys and new admittees. Obviously, the numbers change based on the salary of the attorney and the number of hours used to calculate the hourly cost.

As part of an analysis of the value of legal services some general conclusions can be made from comparisons with other cities. IMLA's Salary Survey for 2014 included a number of cities within the population range of Ft. Pierce (35,000 to 55,000). The cities in the survey generally have staffing numbers similar to Ft. Pierce while their total budgets vary widely. The surveyed cities have average legal budgets of \$633,000 with a budget median of \$492,000. Assuming a population of 43,000 and a legal expense budget of \$680,000, the per capita cost for legal services in Ft. Pierce is \$ 15.81. Using the cohort of cities from the IMLA survey as described above the per capita cost average is \$14.20 and the median is \$11.25. Thus, the cost of legal services in Ft. Pierce is slightly above both the median and the average. Similarly, in examining the cohort of cities from the IMLA survey, the legal budgets for those cities average 0.84% of the City's total budget and the median for the cohort is 0.61%; whereas, Ft. Pierce's legal budget appears to be a little higher than either the average or the median of the cohort.

Bear in mind that statistics can be deceiving and do not offer absolute answers to questions. So, while Ft. Pierce's legal costs are above average and above the median for the surveyed cities, they are far below those of many cities in the survey and may be far below those of non-surveyed cities. For example, in doing a study for Wellington, FL, IMLA found that per capita legal costs were \$19.06 for the City of North Miami Beach²³. At the time IMLA prepared that study North Miami Beach had a population almost equal to that of Ft. Pierce. In short, legal costs can be a function of a city's size, the number of different functions and services it provides, the litigiousness of the community, and the prevailing salaries, fees and rates of the legal profession in the area. That Ft. Pierce's legal costs slightly exceed the average suggests that the City may find ways to reduce the costs without negatively affecting the City.

²² IMLA bases 1800 hours of service on a calculation using 2080 as the normal work year of 40 hours per week times 52 weeks, less 10 paid holidays, less 15 days (three weeks vacation), less 10 days sick leave, less 5 days of professional leave for CLE or other professional improvement. If these amounts of leave vary from those allowed in the Ft. Pierce personnel policies they number can be adjusted upwards or down to establish a more accurate per hour figure.

²³ North Miami Beach has actually increased that cost per person to \$20.20 based on a 2013 population estimate of 43250 and a city attorney budget for FY15 of \$873,531.



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Managing Legal Services

The Contract for Legal Services.

The City advises that it does not have a formal written contract for legal services; rather, the Ft. Pierce Commission appointed the City Attorney and each assistant to act on its behalf but without a formal contract. IMLA believes that Ft. Pierce and the City Attorney should enter a formal written contract that describes in detail the City's expectations and duties and the Law Firm's expectations and duties. There are a number of methods by which a law firm might be hired to perform services for the City which could include:

- Memorialize the current approach in a contract.
- Enter a contract for a lump sum amount to perform all or a negotiated number of services to be paid monthly or annually.
- Enter a contract that specifies a variable hourly rate for timekeepers based on their expertise and the type of work they are performing
- Enter a contract that specifies
 - The amount to be paid for regular city attorney services,
 - The amount to be paid for additional city attorney services; and
 - The amount to be paid for special city attorney services.

Regardless of the form of contract agreed upon, the contract must specify details of the representation including who can authorize billable work. IMLA has been in the process of developing model contracts for city attorneys but has not finalized a draft for either in-house or outside city attorneys. A draft of one of the model contracts in development is attached as Exhibit A as an example of a format that might be considered²⁴. The determination as to the form the Agreement takes and its terms must be negotiated between the City Attorney and the Commission and Exhibits A, H and I simply offer some ideas of what terms might be considered. Whatever choice Ft. Pierce and its attorneys choose, Ft. Pierce should consider seeking members of the community to provide volunteer services to review and advise the Commission on the terms of the contract or hire an attorney to review the contract's terms and advise the Commission if the contract becomes complex. Most contracts between cities and their

²⁴ Attached as Exhibit H is the contract used by New Port Richey and as Exhibit I the contract used by Treasure Island. Each offer different approaches to contracting for legal services. The City Attorney advises that he has other forms of contracts that might also be considered and IMLA agrees that there are many different options available.



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attorneys do not involve independent review by committees or outside attorneys. A relatively recent case²⁵ involving the former Miami City Attorney and a dispute over his contract suggests that a city commission ought to seek independent advice when developing its contract with its long-time city attorney.

Billing

The contract should include language that details how the attorney will bill the City and what must be included in the bill. IMLA believes the City needs to develop a mechanism that will allow it to better monitor its attorneys' billings to allow it to audit those bills if necessary and to enable it to manage the services to determine if the costs of some services warrant the expense. IMLA understands that the format for bills has been discussed between the Commission and the City Attorney over the years and the current form was agreed upon between them. Nevertheless, there are other cities in Florida that are billed on an hourly basis and receive bills that reflect the work and the time devoted to the work by the attorney²⁶. It is customary both in private and public settings for attorneys' bills to be formatted as to subject, task, time spent and by whom. Increments vary, but tenth of an hour increments seem to be relatively common although exact time-keeping may become more popular with the increased ability to measure time using work management systems, apps and programs. Similarly, most corporations and governmental entities place limits on what services can be billed: time spent in billing, secretarial time, and other matters are generally included in overhead and are not normally included in the attorney's billing.

None of this discussion should be considered a negative reflection on the Ft. Pierce City Attorney; instead, IMLA believes that Ft. Pierce can enhance its ability to manage its legal services by implementing prudent and effective management principles as to how its legal services are performed and billed. Simply stated, block billing does not enable the City to evaluate whether its costs are fully justified by the benefits achieved. At the same time, the public information laws in Florida can be used to disadvantage the City if too much information is included in the bills. While there is a delicate balance that must be considered in presenting bills to the City, most of the work²⁷ probably does not involve projects the disclosure of which

²⁵ Fernandez v. City of Miami.

²⁶ Nevertheless, it is true that there are others that receive bills without that detail.

²⁷ The City Attorney disagrees with IMLA's statement that "most of the work probably does not involve projects the disclosure of which would jeopardize city interests". IMLA stands by its statement. The list of projects and billing information do not allow anyone to fully understand the City's interest or the Attorney's work in those projects.



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in a bill would jeopardize City interests. IMLA sought and received bills from a number of cities and public entities in Florida and most included the following information: The client/project being billed; Date of service; timekeeper (attorney/paralegal); amount of time; and a narrative of the work that was performed regarding each task²⁸.

Once it receives bills that detail the work being performed, the City needs to assign someone to review the bills for accuracy similar to how other contract performance is reviewed. The City Manager should be assigned this function and for matters that cannot be reviewed and evaluated by the City Manager²⁹ a member of the Commission should be delegated the duty. If the work is being performed for an entity not under the City Manager, then that entity should be assigned the duty of reviewing and approving the bill.

Ft. Pierce could benefit by developing a mechanism that would allow its managers to evaluate the necessity for legal expenditures in specific cases and matters³⁰. While the process may currently exist and may be performed *ad hoc* by the attorney's office, a formalized process that includes a cost benefit analysis that determines whether to spend attorney time on matters as they are handled might eliminate the perception that the City is overspending:

- Litigation
 - Insurance cases: The City Manager/Risk Manager should evaluate the exposure to the City that the case imposes both as to retention before insurance kicks in or as to excess of insurance. This would allow the City Manager/Risk Manager to calculate the importance of the City Attorney's time involvement in the case. Assuming the exposure is minor, so too should the cost to the City be of the attorney's time. This recommendation substantially changes how the City currently handles these types of cases and elevates the City Manager/Risk Manager's role.³¹

²⁸ IMLA received bills for legal services from New Port Richey, Ft. Myers Beach, Deltona, Treasure Island, Madeira Beach, Palm Bay and the Ft. Pierce Utility Commission. Exhibit J. All but Deltona receive bills with the detail IMLA recommends. Deltona appears to have a contract that pays a set amount per month for all legal work and the detail of the bills is more descriptive than what Ft. Pierce receives, but not as descriptive as the others. As part of its review IMLA also received a bill used in Haines City that is more descriptive than what Ft. Pierce now uses and appears to keep actual time.

²⁹ For example, the City Manager may have a conflict or the work performed by the attorney does not involve the City Manager and is being performed by the Attorney for the Commission directly.

³⁰ This assumes the city continues to receive these services on an hourly fee basis. If the manner of billing these services were to change, so too should this evaluation process.

³¹ The City Attorney points out that the City Charter, §46 provides specifically that matters involving claims against the City be referred to the City Attorney and that after an investigation of the claim, the City Attorney report to the



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- No insurance: The risk manager in liability cases should evaluate the potential loss to the City and ask the City Attorney for an estimate of legal fees that may be required to provide a defense. In cases that do not seek damages, the City Manager should ask for an estimate of the cost of defense and the City Manager, City Attorney and Commission should meet to discuss the defense, estimated cost of defense and determine if the cost argues in favor of settling, changing policies or otherwise concluding the case more quickly. No doubt this process has been informally followed in the past, but it could be more formalized by a contractual provision that calls for the attorney to submit an estimate or budget³² for the case.
- Affirmative litigation: The City Manager or Commission should ask the City Attorney for an estimate of the cost of pursuing litigation where the City is a plaintiff in advance of engaging the City Attorney on the matter. Obviously, a claim of \$1000 will likely not justify spending \$10,000 to recover it. The City Attorney reports that this cost benefit analysis is being made in conjunction with management. IMLA recommends that the City formalize this process.
 - If there are many similar small claims an alternative to an hourly billing method should be considered. For example, if the City has a number of claims that collectively total thousands of dollars but which as individual claims are relatively small, a fixed fee contract to handle all of the cases on a contingent fee basis could prove more cost effective. Debt collection cases generally fit this mold.

Commission on it. Many cities assign this type of duty to their risk manager and it might make sense for the City to consider having the Risk Manager carry out this function under the direction and supervision of the City Attorney, or change the Charter. City Charter, §45 also discusses the duties of the City Attorney and provides in part: “When required to do so by the city manager or the city commission, he shall prosecute and defend[,] for and in behalf of the city, all complaints, suits and controversies in which the city is a party. He shall furnish the city commission, the city manager, the head of any department, or an officer or board not included in any department, his opinion on any question of law relating to their respective powers and duties.”

³² In this context an estimate or a budget should not be seen as a limit on the ability of the City to defend itself; i.e., giving the plaintiffs notice that if they run up costs, the City will be required to yield. Rather, the intent is to allow the City Manager and Commission to evaluate the cost of defense, likelihood of success and the benefit of defending the case versus finding a less costly resolution. If not resolved, the estimate or budget would be revised regularly and Commission and City Manager could reevaluate as the budget changes. It is not intended that these informal estimates and budgets involve limits adopted by the Commission, but opportunities for the Commission and Manager to evaluate their litigation posture in specific cases, including whether to seek a different contractual arrangement for the specific matter with the City Attorney or another attorney.



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- Code enforcement litigation may also lend itself to a different contracting method, such as per case, per docket or a lump sum amount for handling all code enforcement cases during a month or a year or similar period.
- Non-litigation
 - Generally, most work that does not involve litigation reaches the City Attorney through the City Manager. Some work is relatively routine and some is not. The City Manager should maintain a list of all work and projects that are submitted to the City Attorney and regularly compare that list with one maintained by the City Attorney to assure there are no gaps. The City Manager should negotiate deadlines for the completion of projects with the City Attorney both as to routine matters (a general deadline) and non-routine matters (a specific deadline for the project). The City Manager and City Attorney should discuss the status of matters and work to conclude them promptly. This should be a joint effort with each taking responsibility to bring the matter to conclusion.
 - Interviews with staff provided different perceptions of reasons for delays in getting approval from the City Attorney.
 - *Legal advice on business matters.* In both private and public settings issues arise as to whether the attorney is offering legal or business advice and who ought to be empowered to make a decision if business interests and legal advice conflict. As an example, one staff member described that a contract was disapproved solely because the contract required venue for litigation to be outside St. Lucie County and possibly outside the State of Florida (the City Attorney explained that there were multiple issues). The Attorney is perfectly correct to advise that a decision to accept venue outside the State is adverse to the City, but venue while a legal issue, is essentially a business decision; i.e., is the cost of accepting venue outside the State acceptable when viewed against the probability that no litigation will occur or the value of the contract or liability exposure³³. So who decides?

³³ In his response to the Draft Report where IMLA makes this point, the City Attorney advises that “This is inaccurate and should be corrected. In Florida, all municipalities possess common law home venue privilege. Venue of any civil action against Fort Pierce may only be brought in St. Lucie County. Venue is never waived by the Commission. Litigating claims in such venues as New York, California, etc. are not optional.” IMLA takes the position that while Ft. Pierce may be best served by retaining its common law right to venue in St. Lucie County, unless there is law to the contrary, venue may be waived and the decision to waive venue is one based on an organization’s determination as to whether the value of the contract exceeds the risk of litigation outside the



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In Ft. Pierce it does not seem to be clear who makes the decision. Ultimately it should be the City Manager³⁴ who makes these business decisions and in those matters of significance where the City Attorney disagrees with the City Manager and believes the City is at great risk, the Attorney and the Manager should seek a policy decision from the Commission.

- *Failure of Coordination.* The director of the City's MIS department related a situation where her department had developed policies for the City's use of its technology and began implementing the policy only to have the City Attorney's office stop the implementation³⁵. The City Attorney advised that the law office had not reviewed and approved the policy and the MIS director advised that the policy had been discussed at several staff meetings attended by the City Attorney. IMLA's report is not intended to focus on who may have been right and who might have been wrong, but clearly something went wrong.
- *Ownership.* Ft. Pierce should evaluate how it manages its work flow. According to staff, apparently, ordinances are primarily drafted by agency staff without any help from the attorney until the draft is submitted to the attorney. The attorney then reviews the draft and suggests changes and sends it back to the staff to make the changes, which can include looking at other examples of ordinances or rewriting the text. It might be more productive for the staff and attorney to work together from the outset and take joint ownership of the project. For example, a department may

home county. The City Attorney's response affirms IMLA's advice that Ft. Pierce needs to require its attorneys to clearly identify when they are providing legal advice that identifies a legal requirement or legal advice that identifies a business decision and which is which. If Florida prohibited a city from waiving venue as we believe Arizona does, then IMLA would agree that the issue is a legal one, but if Florida allows a city to waive venue, then the decision to do so or not is a business decision properly left to the City Manager or the Commission and not the attorney.

³⁴ IMLA assumes the Commission can override the City Manager or set a different policy. This is clearly a Charter issue and a question of law that the City may want to confirm as IMLA is not in a position to offer a legal opinion and is only making an assumption that if the City delegates through its Charter the business operations of the City to the City Manager, then the Manager would have the authority to make this type of decision. That assumption may be wrong and if so, it would be the Commission who must make the business decisions.

³⁵ In actuality the City Manager stopped implementation of the policy on the advice of the City Attorney.



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believe an ordinance is necessary, or the Commission has asked that an ordinance be developed, or a board or commission has asked that an ordinance be developed; rather than, moving forward without involving the attorney, the department should discuss the proposed ordinance with the attorney, get advice and decide upon how the work will be shared to produce a finished product as quickly and efficiently as possible. The City Manager needs to play a more active role in seeing that the workflow moves in a timely manner by setting deadlines and understanding the status of work being handled by the attorney and insuring the attorney understands how the work fits into the Commission's and Manager's goals.

- *Use of forms.* While the City uses a host of forms, they may not be used as effectively as they could be. For example, a proposed contract (which the City seems to have as a form) could be included in procurements at the bid stage so that the bidder is able to agree to the contract or offer exceptions to its terms as part of the bid process. Doing so should reduce delays in negotiations of a final contract and the amount of attorney time involved in those negotiations. Some decisions on business policy could be made in advance recognizing that some vendors have their own terms and conditions that they will not vary based on the City's limited purchasing power. The goal for the Manager should be to use these forms in a way that reduces the amount of attorney time at this stage of the contract process while still effectively protecting the City. Staff mentioned a concern over the amount of time it takes to release liens established through the code enforcement process. The City Attorney explains that releasing liens has not been a high priority of the Manager and they are handled accordingly. Nevertheless, there are forms that could be used, filled out by staff, reviewed by the attorney and filed without what looks to be the more complicated process currently in place³⁶. A benchmark could be set to establish a

³⁶ A new billing format might also help to determine the cost the City incurs to release a lien. One of the lien releases IMLA reviewed involved a lien that had been reduced to \$30. The attorney's office and management spent far more than \$30 in time processing the lien release. The Commission should understand these costs and seek to reduce them or recover them.



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clearer priority for handling these relatively routine matters. More to the point, someone needs to take responsibility for the amount of time the City Attorney spends by understanding and approving how the time is spent, working to reduce the amount of time when it seems at odds with the benefits being derived, and exercising management controls over matters within the City Attorney's area of responsibility.³⁷

Supervision

The City Attorney responded to the Draft Report by describing the relationship between the City Manager and the City Attorney as set out in Ft. Pierce's Charter. In doing so the City Attorney explains: "The Charter is very specific that the City Manager has supervisory control over all other Departments and Department Heads [except the City Clerk, the City Attorney and the City Auditor]. Any suggestion by IMLA that Department Heads exercise supervision or control in any respect over the City Attorney's office or in the exercise of its independent legal judgment, whether as to "business decisions" in defending lawsuits, approval of legal expenditures, etc. would appear to create Charter infractions. There could also be a potential infraction of the Rules Regulating the Florida Bar." (Footnote omitted.) The City Attorney also explained that "Instead of control and oversight measures, which are again reserved to the Commission, the City Manager's office is more properly seen as supervising the **work flowing into** the City Attorney's office **from staff** and not the reverse situation. This fosters an important **cooperative**, not supervisory, relationship which the Charter envisions."

The City Attorney's point regarding the Charter is well made. Yet common sense dictates that the Commission as a part time body that supervises a vast array of projects and services through the City Manager can also delegate to the City Manager the responsibility to review the City Attorney's bills for payment and to determine if the work was actually performed without crossing the line of supervision. Similarly, the City Attorney's point regarding the Florida Bar Rules is well made. Nevertheless, every client has the ability to define the scope of

³⁷ There is a fine line between an attorney's ethical duty to retain independence in performing legal services and recognizing that the attorney ultimately must answer to the client. Generally, the line is drawn between policy goals which the client can establish and how the policy is carried out (tactics) which is within the attorney's judgment. Nevertheless, a manager can and should determine where costs might be reduced. For example, most organizations attempt to reduce the number of timekeepers attending the same meeting; or demand that if a form is used that the fees reflect the use of the form rather than the cost of its development.



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representation and there should be ample room in the Rules of the Florida Bar for a client to determine if it wishes to spend money on a matter and to determine whether and to what extent to follow its attorney's advice.

If the City Attorney believes that this issue is a legal one that requires a legal opinion, then IMLA suggests that the Commission seek independent legal advice as to the extent to which it can authorize the City Manager and staff to review legal bills for payment, assign projects, make business decisions and make business decisions regarding litigation.³⁸ Similarly, the Commission and its City Attorney can ask the Florida Bar for its opinion on the extent to which the City can direct its attorney as to "business decisions" in defending lawsuits, approval of legal expenditures, etc.

Transparency

One way to increase transparency could be to provide more detailed reporting to the Commission, the Manager and the public. Montgomery County, MD provides an example of an organization where its attorney reports regularly³⁹. Its attorney provides a report on all open litigation (attached as Exhibit B) and various other work being handled by the office either directly from a work management report or through statistical information. The information allows the public and managers to better understand what the attorney's work involves and provides valuable management information. For example, assessing which departments generate the most suits and of what type can help managers determine if there are problems that need to be resolved either in the administration of a department or in its policies.

Matter management software (or a Work Management System "WMS") provides a resource to both the City and the attorney in developing this type of reporting. In addition to providing the attorney with a system that organizes and manages the work assigned to the law office, the system can provide the City with real-time updates on the status of matters and cases and will allow the attorney to give the Commission and staff rapid updates on the work without the time and expense of having to find and review a file. Some matter management systems include time keeping functions to better enable the Firm to provide billing that includes that information. As an example of cost for these types of software, IMLA contacted a provider of a matter management system designed for municipal law offices about two years ago. It quoted

³⁸ Charter Section 45(c) seems to provide the necessary authority to the City Manager to make business decisions regarding litigation, but that may also be an issue for independent legal analysis.

³⁹ http://www.montgomerycountymd.gov/cat/oca_report_page.html



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a price between \$7,000 and \$11,500 to set up a system for three users and between \$1000 and \$1850 per year starting in the second year of the contract to maintain the system depending on the modules purchased.⁴⁰

The City Attorney described the difficulty his office faces in performing many of its functions without being able to effectively interface his outside law office and staff with the in-house computer system. In addition, assistant city attorneys report difficulties in accessing and using the Internet to do research based on limitations imposed by the MIS department. Most companies, including IMLA use VPN⁴¹ systems to interface satellite locations, teleworkers and contractors with their internal systems. While there are risks, companies as large as Microsoft and as small as IMLA have found solutions and Ft. Pierce should be able to as well. Limiting the ability of the Firm to productively use current technology can decrease productivity and increase costs.

Performance Metrics

Ft. Pierce needs to develop additional metrics from those in place to determine how well it is being served and metrics that it can compare with other cities to help it determine if it is being over served or underserved. According to the Ft. Pierce budget documents, the following are performance measures for the City Attorney⁴²:

- Prepare legislative orders (e.g. resolutions, ordinances, & City plan orders) within 7 working days of the original request.
- Provide response to queries from City staff within a 24-hour period from the time received.
- Percentage of lawsuits tried with favorable disposition.

These metrics are important and help in evaluating the service provided. Many communities have similar metrics. Some metrics are more helpful than others. Some simply measure amounts of work; while others, like the first two above, measure the timeliness of work and these objective standards are useful. Developing subjective standards are more difficult and need to be carefully used as personalities can infect the results.

⁴⁰ The higher price quotes include the time keeping function.

⁴¹ Virtual Private Network.

⁴² The City Attorney advises that his office did not participate in the development of these metrics nor was the office aware of the metrics that were included in the budget.



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Developing metrics, whether for a city attorney or another department of government, reflects the priorities of the City. Using the examples already in place, Ft. Pierce appears to place value on the timeliness of legislative orders and on attorney response to staff inquiries, and to winning its litigation. But what value does it place? Clearly, winning litigation is important, as the goal is 100%, but as to responding to staff and preparing orders, the goals are not so high.

Another city with which IMLA is familiar used a larger set of measures to reflect the values of that community:

- Number of ordinances and resolutions written
- Number of real estate transactions closed
- Number of titles searched
- Number of pending condemnation cases
- Average number of days from project completion in contested condemnation cases to first resolution
- Average number of days to process an ITB or RFP from receipt of project to Legal Dept. approval
- Number of contracts written or reviewed
- Average number of days to process a contract from receipt to Legal Dept. approval
- Percentage of back taxes collected in first year of collectability
- Number of public meetings attended

In its timeliness metrics, that city reports that it takes an average of 2.05 days to process a contract and an average of 4.41 days to process an ITB or RFP. So rather than measuring a percentage of timely responses, it captures the amount of time to respond and creates an average. Both metrics provide additional information that could help Ft. Pierce in determining performance than do those used by Ft. Pierce alone. For example, if the percentage of timely responses; i.e., responses within 24 hours was 99% but the average time to respond was 36 hours, one could assume that at least one or more projects languished. With that information managers should be in a position to assess which projects were delayed and why.

While the following examples may not apply to all cities or in all circumstances and may not be metrics important to Ft. Pierce, these common measurements can help Ft. Pierce identify and formulate its own metrics. Yet, developing these metrics and maintaining them can be a chore and cost more than the metrics yield in value and no metric should be adopted if it is not going



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to be used. Computerizing the City Attorney's work management system should be a priority to enable it to establish and report its work more efficiently and transparently.⁴³

Objective metrics:

1. General

- a. Ratio of legal services budget to City total budget
- b. Cost of legal services per capita
- c. Cost of legal services per City FTE's
- d. Liability Claims per 10K population

These are relatively simple metrics to keep and to maintain. They can help the City determine if its expenses for legal services are out of line with other cities of the same size and number of employees and budget.

2. Amount of work:

- a. Number of citizen calls received
- b. Number of FOIA requests handled
- c. Number of contracts drafted/reviewed
- d. Number of other legal instruments drafted/ reviewed
- e. Number of ordinances drafted
- f. Number of meetings attended (Commission, Board, staff, etc.)
- g. Number of public hearings attended
- h. Number of written legal opinions issued
- i. Numbers of cases opened, and closed annually by case type (bankruptcy, civil rights, contract, employment, eminent domain, labor, property, subrogation, collections, subpoenas of City records, tax issues, TRO's/Injunctions, Tort, Writs).
- j. Litigation cases by client departments (police, fire, code enforcement, planning, parks, etc.)
- k. New matters opened each year by issue type (Financings, appeals/hearings, bankruptcy, collections, construction agreement, consultant agreements, development related agreements, grand jury requests/subpoenas, interagency agreements, labor, mediation, formal legal opinions, ordinances drafted, public records requests, resolutions drafted, contracts approved as to form, staff reports reviewed, general advisory assignments, etc.)

⁴³ A Work Management System should be included in the City Attorney contract. The Contract should discuss who provides the WMS, who owns it and the data, and what happens upon termination of the contract. Similar provisions should be included regarding the City's files.



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- l. New assignments by client department
- m. Litigation cases opened/handled/monitored by insurance counsel, outside counsel or City Attorney

These metrics can be captured relatively easily using a WMS, but would be cost prohibitive without one. Nevertheless, the information can help the City determine where its litigation originates and that information ought to allow the Commission and Manager to determine if there are causes for the litigation that ought to be analyzed and department activity, policies, procedures or personnel reformed or changed.

3. Timeliness of work

- a. Time to respond to citizen phone call
- b. Time to respond to request for opinion
- c. Time to review/draft contract
- d. Time to draft ordinance
- e. Time to review/draft other legal instrument
- f. Time spent at meetings attended (Commission, Board, staff, etc.)
- g. Time spent to research and draft legal opinion

Again, these metrics will be cost prohibitive without a WMS, but if maintained can enable the Commission to see if its policy goals are being met. This might be a place to determine if there are other metrics regarding timeliness that could be considered, for example how long a release of lien should take.

4. Economic measures

- a. What percent of the prevailing rate for private counsel (generally and by practice area) do the city's attorneys charge⁴⁴?
- b. Collection: Cost of collecting delinquent debts as a percentage of debt recovered.

These measures can help the City determine whether its fees for legal services compare favorably or unfavorably to the market place and whether other economic metrics reflect success, failure or a need to improve handling matters for the City. They can lead to helping the City calculate whether to farm out some or all of its legal work to other firms or enter other forms of contracts for specific types of work with the Firm.

5. Damages litigation:

- a. Percentage of claims resolved without payment

⁴⁴ This measure more appropriately acts as a measure for in-house counsel.



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- b. Percentage of claims that go to judgment/dismissed/settled
- c. Ratio of cases won vs. lost;
- d. Was result below Plaintiff's last demand, below City's last offer?
- e. Ratio of settlement and judgment amounts to Plaintiff's original demand.
- f. Number of cases by type handled by each attorney

Rather than simply keeping a won/lost record for litigation, other factors should be measured. The City Attorney's policy to aggressively litigate claims against the City has the effect of reducing the number of frivolous claims likely to be filed. Ascertaining how many cases are resolved without payment or are dismissed at the pleading stage, can help determine if the cases are weighted towards the frivolous. The fewer frivolous claims the more the City should be looking at its policies and practices to determine how they can be changed to avoid adverse judgments. Statistics can help the City determine if its settlement practices are well structured. Understanding the number of cases an attorney carries can help determine if the office is overwhelmed or carrying a reasonable number of cases. Insurance defense firms routinely carry 70 cases per attorney, local governments handling federal claims under Section 1983, Title VII and other federal statutes can expect their attorneys effectively to carry no more than 20 cases at any one time.

6. Code Enforcement:

- a. Ratio of cases won vs. lost
- b. Amount of fines collected vs. fines charged
- c. Cost of collection vs. amount of collection

These metrics help the City evaluate the effectiveness of its attorneys' handling of code enforcement matters, but ought to be maintained in conjunction with metrics that measure how the code enforcement officers are doing.

7. Proactive representation

- a. Number of legal alerts or newsletters issued to staff and Commission
- b. Number of training sessions for Commission and staff

To be truly effective a City Attorney should help train staff and Commission by sending regular updates on changes in the law or decisions of courts that may be relevant to the goals and policies of the Commission and staff. Similarly, the City Attorney should be expected to conduct in-house training programs to discuss legal issues that the City faces or may face, so that the staff and Commission are aware of the legal issues as they adopt goals and policies. Training can also reduce the amount of attorney time needed in handling matters where staff understands the legal issues involved and adapts its practices accordingly.



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8. Maintenance of legal knowledge

- a. Specialization through certification in local government law
- b. Number of CLE hours per years
- c. Number of presentations to attorney groups on municipal law

A city whose attorneys are recognized by others as the best in the business can be a source of pride to the city and can reflect well on the city. While a road worker may need a truck, a shovel or a bulldozer, an attorney's tools are the attorney's knowledge and the attorney must maintain that knowledge either through mandatory CLE or by seeking additional training and knowledge through other programs. The City should measure whether the attorneys are maintaining or improving themselves.

Subjective Measures

Ft. Pierce should develop a method to have various constituencies evaluate the City Attorney, but should not do so in isolation. A customer satisfaction form is one easy tool and Ft. Pierce should adopt one (sample attached as Exhibit C), but an annual review is also an important tool. The customer satisfaction form should be used regularly to evaluate the attorney's performance in specific matters and available to the staff being served. At some point in the future the Commission might determine to tailor a customer satisfaction form for outside contacts and a sampling taken of people who have had contact with the City Attorney and outside counsel. IMLA does not recommend surveying outside contacts at this time.

The evaluation should go to the manager and the Commission for review. Because these types of forms ought to be anonymous, the manager and Commission are cautioned to use them appropriately; i.e., to recognize that they may be infected by vindictiveness or by favoritism and only should be considered to evaluate the perception of service. Attorney, Manager and Commission should discuss the evaluations to determine methods to change the perceptions if necessary and respond to agreed upon shortcomings while applauding successes. Metrics can include:

- a. Above average rating from Internal Customer Satisfaction Survey.
- b. Ability to distinguish between legal requirements and business decisions
- c. Appropriate involvement during Commission and Board meetings
 - a. Provide necessary legal advice
 - b. Act as attorney not as Commission member or board member

Outcome based metrics and goals:

- a. Outcome: legal support to the City is timely



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Internal clients report timely document preparation -
Internal clients reporting legal advice was timely –
Internal client satisfaction with Civil Support Staff –

b. Outcome: legal support to the City is effective

Internal clients reporting document preparation met client objectives
Internal clients reporting legal advice was clear and relevant –
Internal clients reporting litigation and administrative hearings were effective –

Goals should be negotiated between the Commission, Manager, the attorney and staff. Some of these goals are more important than others, but metrics and the goals they include should reflect the Commission's priorities. These goals also assume a measuring tool.

Conclusion

Ft. Pierce should feel comfortable that it has an excellent legal team representing its interests. By formalizing its contract with that team and including in the contract requirements for more transparency in billing, more reporting on the work performed and allowing more direction by the client of what work needs to be performed, the City can better determine and understand its cost of legal services. Similarly, by having the City Manager and the City Attorney develop a more formalized approach to coordinating legal services and reporting on them to the Commission, surveying staff regarding the performance and developing and monitoring performance metrics, the Commission can determine how well its legal services budget is being spent.

In order to reduce the amount of paper that comprise the exhibits, the exhibits are available at the following links:

[Exhibit A: City Attorney Model Retainer Agreement](#)

[Exhibit B: Montgomery County Activity Report](#)

[Exhibit C: MoCo Survey](#)

[Exhibit C: Riverside](#)

[Exhibit C: Survey](#)



IMLA Report to the City of Ft. Pierce Study of Legal Services

[Exhibit D: Ft. Pierce Legal Bills](#)

[Exhibit E: 1104 Jasmine Avenue ROL letter](#)

[Exhibit E: Lien Release Chronology](#)

[Exhibit E: 1104 Jasmine Avenue Lien Package](#)

[Exhibit E: 2729 S US Lien Package](#)

[Exhibit E: 2729 South US Highway ROL Letter](#)

[Exhibit F Legal Service Billing](#)

[Exhibit G:IMLA RVS Chuck Thompson](#)

[Exhibit H: New Port Richey City Attorney Retainer](#)

[Exhibit I: Treasure Island City Attorney Agreement](#)

[Exhibit J:Haines City Meeting](#)

[Exhibit J: Ft. Pierce Utility UA ATTY Bills](#)

[Exhibit J:January 2015 Vose Law Billing](#)

[Exhibit J: New Port Richey 1-15-15 BMO](#)

[Exhibit J: Ft. Myers Beach Invoice](#)

[Exhibit J: Treasure Island Invoice](#)

[Exhibit J: Madiera Beach Invoice](#)

[Exhibit J: Palm Coast Invoice](#)

[Exhibit K: Special Projects](#)

[Exhibit K: Summary Report](#)



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of Legal Services

[Exhibit K: Activity Reports](#)

[Exhibit K: Civil Service](#)

[Exhibit K: Code Enforcement](#)

[Exhibit K: CRA October 2013 Through September 2014](#)

IMLA appreciates the opportunity to work with Ft. Pierce on this project and commends the Commission for taking on this project.

City Commission Conference Agenda

Agenda Item # 4. E.

Meeting Date: 07/13/2015

Re: Alarm Ordinance

Submitted For: Diane Hoble-Burney, Chief of Police, Police Department

SUBJECT:

Alarm Ordinance Update - Police Chief

Attachments

Memo from Police Chief re: Alarm Ordinance

Attachment 1

Attachment 2

Attachment 3

Attachment 4

Attachment 5

Form Review

Form Started By: Jennifer Robinson
Final Approval Date: 07/08/2015

Started On: 07/08/2015 01:03 PM



Diane Hobley-Burney, Chief of Police

To: Robert J. Bradshaw, City Manager
From: Diane Hobley-Burney, Chief of Police
Date: July 8, 2015
Subject: Alarm Ordinance

DB

As you are aware, at the request of the 911 Board of Governors, a county wide Alarm Committee was formed in July of 2013. This committee was comprised of the Fort Pierce Police Department, Port Saint Lucie Police Department, Saint Lucie County Sheriff's Department, Saint Lucie County Fire District, and the Saint Lucie County Public Safety Department.

During the last year the committee has selected a third party vendor (Attachment 1) to provide alarm billing and tracking services, as well as, crafted a county wide ordinance which was recently approved by the St. Lucie County Commission (Attachment 2). It is the committee's recommendation that the ordinance be adopted county wide by all applicable governing bodies. We have already forwarded the proposed ordinance to City Attorney Robert Schwerer and received his review memorandum (Attachment 3) dated June 15, 2015. Mr. Schwerer stated the ordinance was technically correct. However, he pointed out several concerns that he has:

1. He asked the Chief to confirm that the county has adopted the new ordinance and that they (County) are asking the City of Fort Pierce to make it applicable within our jurisdiction. In response to this I offer Attachment 2 which is a copy of the County's registered ordinance. I am currently waiting on a document from the County's Attorney stating that the County wants us to adopt the ordinance.
2. There is no appeal process contained within the County's ordinance. As Mr. Schwerer points out, the County and PSL are working through this issue now. This is clearly a legal issue that needs to be resolved by our City Attorney. I talked to Mrs. Emerson (City Attorney) and she stated that they were working with PSL on the language to resolve this issue. I agree that there does need to be an appeal process and that it should mirror other appeal processes within the City.
3. The fine structure within the new ordinance has increased "substantially" from our current ordinance (Attachment 4). He advises that this a policy decision for the Commission and Management to make. I talked to Mrs. Emerson about this as well and she stated that it is Mr. Schwerer's intent that we discuss this specific issue with the Commission and Management during a conference agenda meeting. Further, I agree with Mr. Schwerer in that the fines are substantial and add that they appear punitive in nature. I brought this up to the committee during two of our meetings and was over ruled by a

majority of its members. It was the majority's opinion that the fees/fines be punitive in nature so that the owner of the alarm would fix the underlying issue with the alarm.

It is my personal opinion that the fee/fine amount should be assessed based on the approximate (it is very difficult to derive an exact cost figure) cost of our response to include all administrative costs. This was calculated in 2006 by the Police Department to be approximately \$90 per response. Therefore, \$100 a response is not an unreasonable amount to charge.

The following is an overview of the proposed alarm ordinance changes in reference to the fee structure:

- There is no permit fee (a permit is still required) required. The current ordinance requires a permit fee of \$10 for a three year term.
- A third party vendor (Cry-Wolf) will facilitate and administer the requirements of the alarm ordinance. The current ordinance requires the Tax Collector's Office to coordinate this now.
- Alarm companies operating in the City are required to pay a registration fee of \$100. There is no requirement in the current ordinance for this.
- A \$50 fine (in addition to any other fines) will be assessed for responses to non-permitted alarms. This fine will be waived if permitted within 15 days. The current ordinance has no additional fine for response to non-permitted alarms.
- A "service fee" for false alarm responses will be charged. This is similar to our current ordinance. However, the fee charged and the number of excused false alarms has changed. The following represents the old and new fees.

Alarm Within 12 months	Current	Proposed
First	\$0	\$0
Second	\$0	\$100
Third	\$0	\$200
Fourth	\$50	\$400
Fifth	\$75	\$500
Sixth & Subsequent	\$100	\$500

4. Mr. Schwerer recommends that we prepare something to demonstrate the need for the increased fines. To that end, I offer this memo and its attachments.

C14-05-538

CONTRACT FOR FALSE ALARM BILLING AND TRACKING SERVICES

THIS CONTRACT FOR FALSE ALARM TRACKING AND BILLING SERVICES ("Contract") made and entered into this 20 day of May, 2014, by and between **St. Lucie County, Florida**, with its main offices located at 2300 Virginia Avenue, Fort Pierce, Florida, 34982, ("COUNTY") and **AOT Public Safety Corporation, dba Public Safety Corporation** ("CONTRACTOR"), a corporation of the State of Maryland with its principal offices located at 103 Paul Mellon Court, Waldorf, Maryland, 20602.

WITNESSETH:

Whereas, the St. Lucie County Board of County Commissioners has adopted and plans intends to amend an ordinance related to alarm systems and false alarms ("Alarm Ordinance"); and

Whereas, the goal of the COUNTY is to encourage more responsible use of alarm systems and to reduce the number of false alarms to which public safety officers must respond by accurately tracking false alarm instances and assessing fees and penalties as required by the Alarm Ordinance; and

Whereas, in its implementation of the Alarm Ordinance, the County is authorized to engage a third-party CONTRACTOR to assist the COUNTY in the preparation of amendments to the Alarm Ordinance and provides for the enforcement of the Alarm Ordinance so that persons and organizations that use alarm systems can be held accountable for false alarms through a system of fees and penalties; and

Whereas, on November 10, 2013, the COUNTY issued a request for proposals (RFP Number: 14-006) to obtain the services of a professional, highly qualified full service false alarm solution firm to provide all services related to the implementation, maintenance, and customer service of the COUNTY's false alarm program; and

Whereas, the CONTRACTOR submitted a Proposal on December 11, 2013 in response to the RFP and this Proposal was deemed by the COUNTY to be the most responsive proposal received and in the best interest of the COUNTY, all factors considered; and

Whereas, the CONTRACTOR created and markets the proprietary and patented (U.S. Patent No. 6,856,246) software system called CryWolf® ("Software"), an integrated suite of software applications operating in a Windows-based environment, designed to assist false alarm reduction managers and planners in government agencies and industry in accessing information relevant to false alarms, and which has been developed at CONTRACTOR's private expense for the commercial marketplace and is not in the public domain; and

Whereas, The COUNTY desires to engage the CONTRACTOR to provide the full service false alarm solution ("Services") described in Attachment A; and

Whereas, the CONTRACTOR desires to accept such engagement.

Now, Therefore, the parties agree as follows:

1. Term.

The term of this Contract shall commence upon the date it is signed by both parties (the "Effective Date") and shall continue for a period of two (2) years following the date the CONTRACTOR begins tracking and billing COUNTY false alarms. This contract shall automatically renew for additional one year periods unless either the COUNTY notifies the CONTRACTOR or the CONTRACTOR notifies the COUNTY in writing no later than ninety (90) days prior to the expiration of the initial or any annual renewal term that the COUNTY or CONTRACTOR wishes to terminate this Agreement.

2. Contract Documents and Order of Precedence.

The contract documents consist of the following Attachments which are incorporated into the Contract by this reference:

A. **Attachment A**, describes the Scope of Services to be provided by the CONTRACTOR and the COUNTY's operational responsibilities, and **Attachment B**, Payment Terms.

B. The Order of Precedence shall be as follows: (1) this Contract; (2) Attachment A; and (3) Attachment B.

3. Preparation of Amendments to Alarm Ordinance.

The Contractor shall assist the County in the review and drafting of amendments to the current Alarm Ordinance in order to provide for a more efficient and effective process for the registration and operation of alarm systems in St. Lucie County.

4. Alarm Management Scope of Services.

A. The CONTRACTOR shall provide the Alarm Management Services described in **Attachment A**.

B. The Alarm Management Services to be provided by CONTRACTOR are designed to assist the COUNTY in enforcing its Alarm Ordinance and include tracking of responsible persons (including individuals, businesses and government agencies) who use alarm systems, registering of alarm systems, billing and notification of permit and false alarm fees in accordance with the Alarm Ordinance and at the direction and under the supervision of the COUNTY's Alarm Administrator, maintenance of a database of persons who use alarm systems, tracking of false alarm occurrences, collection of fees, the collection and enforcement of penalties for violations, generating performance and outcome reports and assuring the availability to the COUNTY of timely false alarm information, all as more specifically described in **Attachment A**.

5. Software license.

The COUNTY shall be licensed and authorized to use the Software and any additional specific customization and development provided as part of the Alarm Management Services

described in **Attachment A**. The license shall cover all Software, including, without limitation, software interfaces and software modifications. The scope of the license is non-transferable and non-exclusive and is authorized by CONTRACTOR for use by the COUNTY to access its false alarm information.

6. Duration of the Software License.

The COUNTY shall have the right to use the Software in accordance with **Attachment A** for so long as the CONTRACTOR provides Alarm Management Services to the COUNTY and/or licenses the Software in accordance with the Termination provisions in this Contract. This license shall apply for the duration of the Contract and any extensions provided for herein or agreed to in writing by the parties. In the event the business relationship with CONTRACTOR is terminated or ended for any reason, the COUNTY's license rights to use the Software shall likewise terminate except as provided for in this Contract, including **Attachment B**.

7. Modification of the Software.

A. Modifications or adaptations of the Software shall be limited to creating or providing interfaces between the Software and the COUNTY's computer systems required to import or export data in order to implement the Software.

B. The COUNTY shall retain a nonexclusive License to use the modified and/or "customized" interfaces with the Software, provided, however, the use of the original Software with such adaptations in any projects other than the management of the Alarm Ordinance shall be subject to additional compensation to CONTRACTOR in an amount and subject to terms to be determined by the parties in writing prior to any such additional use.

8. Protecting Confidential and Proprietary Information.

The proprietary information of both parties, CONTRACTOR and the COUNTY is and shall remain the valuable intellectual property of each respective party. Except as required by law, neither party shall disclose any such information to any third party for any reason without the express written consent of the other party and shall only use proprietary information for internal purposes to facilitate and assist CONTRACTOR and COUNTY staff in the administration of the Alarm Ordinance. In addition, the parties shall provide reasonable safeguards to protect their respective software, hardware systems and data from unauthorized intrusion by third parties. Notwithstanding, the parties recognize that the COUNTY is a government body subject to compliance with Florida Public Records laws.

Names, addresses, type of alarm, identification information of any alarm monitoring company, or identification information of any person cited under the Alarm Ordinance shall not be released, exhibited or sold to any third party by CONTRACTOR, except as required by law.

All data received hereunder shall be made a part of the COUNTY's permanent records and files and preserved therein for a period in accordance with the requirements of Florida law. The COUNTY will inform CONTRACTOR of the required retention time in writing at the beginning of the Contract term and, in the event these requirements change, as soon as those changes are approved by the appropriate Florida State or COUNTY agency.

All alarm related data maintained by the CONTRACTOR shall remain the property of the COUNTY. If the contract is terminated for any reason, the CONTRACTOR shall provide such data to The COUNTY on a timely basis in a mutually acceptable, electronic file format.

9. Reproduction and Copyright.

A. The Software is protected under the Copyright and Patent laws of the United States, and as extended by treaty, with Canada. The COUNTY may not copy, or allow anyone else to copy or otherwise reproduce, any part of the Software without the prior written consent of CONTRACTOR, except to store and/or install a copy of the Software on a storage device, such as a network server, used only to run the Software on other computers over an internal network and except for two copies for back-up or archive purposes.

B. The COUNTY may copy any CONTRACTOR provided Software as necessary to its hard disks or other such storage medium to efficiently operate the Software on the COUNTY single-user system, multiple-user system, or network. The Software shall be copied as a whole, and the use of the copies shall be governed by this Contract. All other copying is prohibited.

10. Limitations on the Use of the Software.

The COUNTY may not reverse engineer, decompile, or disassemble the Software. The Software is licensed as a single product. Its component parts may not be separated.

11. Notices of Intellectual Property Rights.

The COUNTY shall assure that CONTRACTOR's notices of intellectual property (e.g., patent, trademark, and copyright notices) provided by CONTRACTOR, if any, shall remain visible on the Software when displayed electronically, or when output created by it is printed for distribution to persons or organizations outside the normal scope of the Alarm Ordinance.

12. Payment.

The COUNTY shall pay the CONTRACTOR for the Services described, in accordance with **Attachment B** ("Payment Terms").

13. Collection of Fines.

The COUNTY shall support the collection of false alarm fees, fines and penalties in accordance with the Alarm Ordinances and at the direction of the Alarm Administrator. If the COUNTY directs CONTRACTOR to engage a third-party collection organization for delinquent amounts, the COUNTY shall cause the necessary legislative and administrative procedures to be enacted and/or adopted in order to delegate to the CONTRACTOR the authority to collect the delinquent fees on behalf of the COUNTY.

14. Confidentiality of COUNTY False Alarm Data.

Any false alarm collection data provided to the CONTRACTOR during the performance of the Alarm Management Services shall be used only in a manner consistent with this Contract, and no false alarm collection data shall be disclosed without the prior written consent of the COUNTY. If such disclosure is compelled or required in any judicial or administrative

proceeding, the CONTRACTOR shall, before disclosing such information, first notify The COUNTY and give the COUNTY an opportunity to object to the disclosure.

In the event the COUNTY objects to such disclosure, it shall notify the CONTRACTOR that it will indemnify it, to the extent provided by law, for any costs and expense incurred, including, without limitation, the cost of attorney fees expended in the defense of any action or proceeding, or relating to the refusal to disclose such information.

15. COUNTY Responsibilities.

A. The COUNTY shall cooperate with and assist the CONTRACTOR by providing management decisions affecting startup or provision of the Alarm Management Services within ten (10) business days of receipt of CONTRACTOR's request for a decision, as well as providing personnel, information, approvals, and acceptances in accordance with a mutually-agreed Implementation Plan to be developed by CONTRACTOR and the COUNTY at the start of the Services. This Implementation Plan will define the detailed tasks and schedule necessary to achieve the following program target milestones:

- 1) Commence Services implementation activities on the Effective Date;
- 2) Begin collecting and processing alarm location information within sixty (60) days of the Effective Date; and
- 3) Begin processing false alarm activations within ninety (90) days of the Effective Date.

The Implementation Plan shall be agreed to in writing by both parties and upon execution by both parties shall be incorporated into this Contract by reference. If factors beyond the CONTRACTOR's control prevent processing of false alarms within the implementation timeline, extension of the implementation must be mutually agreed to and documented via change order.

B. The COUNTY shall provide the CONTRACTOR with CAD alarm incident Records, appeal records, and necessary historical, non-financial alarm registration and alarm incident information in accordance with the terms of a mutually-agreed implementation plan and in a mutually-agreed electronic format, as necessary and proper, to allow the CONTRACTOR to effectively provide the Services and enforce the Alarm Ordinance.

16. COUNTY Alarm Administrator.

To facilitate effective communication between the COUNTY and the CONTRACTOR, and in accordance with the Alarm Ordinance, each Agency shall designate an Alarm Administrator to manage security alarms for its Agency. The Alarm Administrator shall have the power and authority to make decisions relating to the Services. In addition, each Agency shall designate a secondary Alarm Administrator to act on behalf of the Agency's primary Alarm Administrator when the Agency's primary Alarm Administrator is unavailable. Each Agency's Alarm Administrator shall have the authority to waive, void, or modify violation notices and the resulting fine amounts related to the alarms under its jurisdiction. Any such waiver, modification, or voiding will be communicated to the CONTRACTOR in a written format by the Agency Alarm Administrator or designee.

17. Resolution of Disputes.

A. *Mediation.* In the event of a dispute between the parties concerning any matter arising under this Contract, the parties shall proceed to good-faith mediation of the dispute. The mediation venue shall be St. Lucie County, Florida. The cost of mediation shall be shared equally.

18. Termination.

A. *For Convenience.* Either party may terminate this Contract for any reason and at any time by giving at least ninety (90) days written notice to the the other party of such termination and specifying the effective date thereof. If the Contract is terminated by the COUNTY, the CONTRACTOR shall be paid for any services already performed by sharing in the collections of all amounts billed by the CONTRACTOR through the date of termination. If the Contract is terminated by the CONTRACTOR, the CONTRACTOR shall provide an option for the COUNTY to transition operation of the alarm program to COUNTY facilities and staff using the CONTRACTOR's proprietary Software as described in Paragraph 18A.

B. *For Cause.* Either party may terminate this Contract for cause if the other party does not perform its duties or exercise its responsibilities in accordance with this Contract including the maintenance of the system of fees and fines in effect at the beginning of the Contract period. Upon an event of cause by either party (Non-performing party), the other (Claimant) party shall provide thirty (30) days prior written notice to the non-performing party that the Contract terms have not been carried out in accordance with this Contract. If the event of cause is not corrected by the Non-performing party to the reasonable satisfaction of the Claimant, the Claimant may terminate this Contract after a thirty (30) day written cure notice to the Non-performing party.

C. *Termination Within Initial Two (2) Year Period.* If this Contract is terminated by the COUNTY or its implementation is terminated or postponed by the COUNTY during the initial two (2) year period, for any reason other than breach by the CONTRACTOR, the CONTRACTOR shall be entitled to receive a prorated share of its initial startup costs as specified in **Attachment B**, in addition to any Service fees owed the CONTRACTOR as described in Paragraph 18 – Rights upon Termination.

19. Rights upon Termination.

A. If the CONTRACTOR is entitled to terminate this Contract or the COUNTY chooses not to continue the Contract for its convenience, the CONTRACTOR shall offer the COUNTY an option, which must be exercised within thirty (30) calendar days after the Notice of Termination, to continue a conditional, uninterrupted, non-exclusive and non-transferable license to use the proprietary Software as necessary to support and administer the COUNTY's Alarm Ordinance conditional on the payment of one-time transitional service and ongoing annual license, maintenance and support fees at the CONTRACTOR's then prevailing rates.

B. If the COUNTY terminates this Contract or if the CONTRACTOR terminates for cause, the COUNTY, in addition to payment of false alarm collections owed to the CONTRACTOR based on the CONTRACTOR's billings through the date of termination, shall undertake good faith efforts to collect any Alarm Management Services fees and civil penalties for Ordinance violations billed, but not yet collected, as of the date of termination, in order to pay the CONTRACTOR, all amounts due the CONTRACTOR as a result of efforts engaged in by the CONTRACTOR on the COUNTY's behalf.

C. In the event that either party terminates this agreement, the CONTRACTOR agrees that all data collected under this agreement is part of the COUNTY's permanent record and that all data, including historical records under the required retention time will be provided to the COUNTY in an agreed upon data format within 30 days of the termination date.

20. Indemnification.

A. The CONTRACTOR shall indemnify, hold harmless, and defend the COUNTY, its elected and appointed officials, employees, agents and successors in interest from all claims, damages, losses and expenses including attorneys fees, arising out of or resulting, directly or indirectly, from the CONTRACTOR's (or CONTRACTOR's subcontractors, if any) performance or breach of the Contract provided that such claim, damage, loss, or expense is not caused by the negligent act or omission or willful misconduct of the COUNTY or its elected and appointed officials and employees acting within the scope of their employment. This Hold Harmless and Indemnification provision shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Contract.

B. In the event that a claim is made against the CONTRACTOR, which arises out of the negligence or willful misconduct of the COUNTY or any of the COUNTY's employees, the COUNTY shall indemnify the CONTRACTOR to the extent the COUNTY is liable and authorized to do so under the law.

C. Any party seeking indemnification shall promptly notify the other party of its discovery of any matter-giving rise to a claim of indemnity. For each individual claim, the indemnifying party shall have no obligation to the other or to any third party with respect to any expenses incurred by or on behalf of the other or its assumption of control of the defense of the claim, or with respect to any compromise or settlement made, without the prior written consent of both parties.

20. Patent infringement.

The CONTRACTOR shall indemnify the COUNTY, its elected and appointed officials, officers, employees, agents, and successors in interest from and against all damages and expenses resulting from any infringement action brought against the CONTRACTOR, or against the COUNTY to the extent that any such action is predicated on the use of CONTRACTOR's software, during the term of this Contract. This Hold Harmless and Indemnification provision shall in no way be limited by any financial responsibility or insurance and shall survive termination of this contract

21. Limitation of Liability.

In no event shall either Party be liable to the other for consequential, special, or incidental damages arising out of or relating to performance and nonperformance. This limitation shall apply regardless of the form of action, whether in contract or in tort, including negligence or misrepresentation.

22. Insurance.

The CONTRACTOR shall provide and maintain in full force and effect at no additional cost to the COUNTY for the duration of the Contract commercial general liability insurance or comprehensive general liability insurance with a minimum limit of \$1,000,000 per occurrence for bodily injury and damage to property including contractual liability, premises/operations, products/completed operations, independent contractors, broad form property damage, and personal injury coverage and a minimum aggregate amount of \$1,000,000 or commercial/comprehensive general liability insurance plus additional excess umbrella liability insurance to meet these limits.

The CONTRACTOR agrees that it shall add the COUNTY, its elected and appointed officials, officers, employees, agents, and successors in interest to the CONTRACTOR's liability insurance policies as additional insureds. The CONTRACTOR shall require its insurance carrier or agent to certify that this requirement has been satisfied on all Insurance Certificates issued under this Contract.

Before any work is initiated and before any invoices are paid for work performed under this Contract, the CONTRACTOR shall provide written proof of compliance with the above insurance requirements by delivering to:

St. Lucie County
2300 Virginia Avenue
Fort Pierce, Florida, 34982
Attention: Contracts Coordinator

a copy of a certificate or certificates of insurance completed by its insurance carrier or agent certifying that minimum insurance coverages as required above are in effect and that the coverage will not be canceled or changed until thirty (30) days after written notice is given to the COUNTY. The CONTRACTOR shall maintain, update, and renew the Certificate(s) for the term of this Contract.

23. Assignment.

This Contract shall not be assigned to any third party without prior written consent, which may be withheld in the sole and absolute discretion of either party. A change in ownership of the CONTRACTOR or a purchase of the majority of assets or stock of the CONTRACTOR by another company shall not be considered an assignment of this Contract.

24. Attorney's Fees.

Should the parties or either of them employ an attorney to enforce by litigation in a court of competent jurisdiction, any of the contract provisions because of a disputed matter arising under this Contract, to assert damages for the breach of the Contract, or in order to obtain injunctive relief, then the prevailing party shall be entitled to recover reasonable attorney's fees, costs, charges, and any expenses expended or incurred.

25. Notices.

Wherever under this Contract one party is required or permitted to give notice to the other, such notice shall be deemed given when delivered in hand or when mailed, by United States mail, certified, return receipt requested, postage prepaid, and addressed as follows:

In the case of the CONTRACTOR:

Public Safety Corporation
103 Paul Mellon Court
Waldorf, Maryland 20602
Attention: Contract Administration

In the case of the COUNTY:

County Administrator
St. Lucie County
2300 Virginia Avenue
Fort Pierce, Florida, 34982

With copies to: County Attorney
St. Lucie County
2300 Virginia Avenue
Fort Pierce, Florida 34982

Public Safety and Communications Director
St. Lucie County
2300 Virginia Avenue
Fort Pierce, Florida 34982

26. Governing Law.

The substantive laws of the State of Florida shall govern this Contract without regard to the law of conflicts. Venue shall be in the appropriate court of St. Lucie County, Florida. Such actions shall neither be commenced in nor removed to federal court.

27. Severability.

If any provision of this Contract is held invalid or otherwise unenforceable, the enforceability of the remaining provisions shall not be impaired.

28. No Waiver.

The failure by any party to exercise any right stated in this Contract shall not be deemed a waiver of the right.

29. Complete Agreement.

This Contract when signed by both parties sets forth the entire understanding of the parties as to its subject matter, conditions and obligations and may not be modified except by further written agreement.

30. Independent Contractors.

In performing the work under this Contract, the CONTRACTOR acts as an independent CONTRACTOR and is solely responsible for necessary and adequate worker's compensation insurance, personal injury and property damage insurance, as well as errors and omissions insurance. The CONTRACTOR, as an independent CONTRACTOR, is obligated to pay federal and state income tax on moneys earned. The personnel employed by the CONTRACTOR are not and shall not become employees, agents or servants of the COUNTY because of the performance of any work by or under the performance of this Contract.

31. Cooperative Purchases.

This Contract may be used by other government agencies. The CONTRACTOR has agreed to offer similar services to other agencies under the same terms and conditions as stated herein except that the revenue share percentage (Compensation) may be negotiated between the CONTRACTOR and other agencies based on the specific revenue expectations, agency reimbursed costs, and other agency requirements. The COUNTY will in no way whatsoever incur any liability in relation to specifications, delivery, payment, or any other aspect of purchases by such agencies.

WHEREAS, the individuals representing the parties are both authorized and have executed this Contract effective as of on the date first written above.

ATTEST:



DEPUTY CLERK

**BOARD OF COUNTY COMMISSIONERS
ST. LUCIE COUNTY, FLORIDA**

BY: 

CHAIR



**APPROVED AS TO FORM AND
CORRECTNESS**

BY: 

ASSY COUNTY ATTORNEY

ATTEST:



SECRETARY

PUBLIC SAFETY CORPORATION

BY: 

VICE PRESIDENT

(SEAL)

ATTACHMENT A

Scope of Services

Purpose

The purpose of this Scope of Services is to describe the duties and responsibilities of the CONTRACTOR and the COUNTY. These Services are described in more detail in the CONTRACTOR's Proposal in response to the COUNTY's RFP Number: 14-006.

CONTRACTOR Responsibilities

1. At the beginning of the project, electronic conversion/import to PSC computer server(s) of any COUNTY alarm program records required to support the proposed CONTRACTOR services. These records may contain historical COUNTY alarm business, alarm system location, responsible party and other alarm data previously developed by or for the COUNTY. CONTRACTOR shall obtain this data directly from the COUNTY and relies on the COUNTY for the accuracy and completeness of any such historical data;
2. Update alarm business, alarm system location and responsible party information and renew permits and alarm registrations in accordance with the COUNTY Alarm Ordinance ("Ordinance"). Updated information may be processed by mail, electronically and / or online;
3. Register, renew and bill the registration of alarm systems in accordance with the Ordinance. Registrations and renewals may be processed by mail, telephone, electronically and / or online. Notices related to registration may be sent by email or mail based on the alarm user contact information maintained;
4. Import daily into the CONTRACTOR's CryWolf[®] alarm billing system, alarm incident data (in formats prescribed by PSC) extracted by the COUNTY from the the COUNTY's SunGard CAD/911 System. The CONTRACTOR agrees to purchase for the benefit of the COUNTY, and coordinate the implementation and maintenance of a bi-directional SunGard CryWolf[®] interface. The COUNTY shall authorize and arrange for Sungard to install and maintain this interface with the County's CAD/911 System.
5. Create and host a dedicated, secure (SSL encrypted) the COUNTY Alarm Program website for COUNTY citizens and businesses to obtain false alarm reduction educational information, review alarm ordinance and appeal requirements, access and update alarm account information, and pay alarm fees online if preferred. This website may be linked by the COUNTY to the COUNTY website if desired;
6. Initialize, maintain, secure and back-up Program databases including alarm business, alarm system location and incident data; alarm-related financial transactions and accounts receivable information. PSC will comply with the provisions of the Alarm Ordinance, and update Program business rules to comply with Alarm Ordinance changes as supported by the PSC software;
7. Process false alarm incident data, including the matching of false alarm incidents with the alarm system location database maintained by PSC;
8. Bill and correspond with alarm businesses and alarm users in accordance with the Alarm Ordinance provisions. This will include but may not be limited to invoices and delinquent

payment notices. A warning notice will be sent to each alarm user on the occasion of the alarm user's first false alarm immediately preceding the first chargeable alarm incident. Warning notices may be sent by mail, email or other electronic method based on the alarm user's accepted contact method(s);

9. Provide COUNTY alarm users access to online information on false alarm reduction and Ordinance requirements.

10. Answer telephone inquiries from COUNTY alarm users that are placed to a false alarm program toll-free customer service number established for the COUNTY;

11. Process fee / penalty payments mailed to and deposited in a nearby COUNTY-approved bank lockbox and account, and received from other payment channels, e.g. online, as agreed on by PSC and the COUNTY, and apply these payments to alarm accounts;

12. Support alarm hearings and appeals by notifying the COUNTY of any such appeals, providing a COUNTY Alarm Program representative with documentation supporting noticing / billing decisions; and updating the system with the disposition of any hearing results;

13. Provide and maintain computer equipment, software, mailing equipment and furniture at PSC's Program processing facilities;

14. Provide the COUNTY secure (SSL encrypted), online, on-demand access to alarm management information and reports including, but not limited to, alarm account transaction history, alarm system information, and financial transactions/balances with format and content specified by the CryWolf® Alarm Management System and the designated Bank, and agreed on between the COUNTY and PSC; and,

15. Perform special collection functions as directed and authorized by the COUNTY such as retaining a third party collection agency or providing delinquent account information to other COUNTY agencies. To the extent permitted by local law, third-party collection fees will be added to the delinquent amounts.

PSC is responsible for all costs of carrying out these responsibilities including, but not limited to, the costs of staff, facilities, equipment, consumable supplies and first-class postage. Only third-party bank and credit card fees, and third party collection costs (if any), e.g. collection agency fee, and citizen overpayments, if any, will be shared by the parties through payment from gross collections before revenue sharing.

The COUNTY Responsibilities

1. Appointing a COUNTY Fire Alarm Administrator ("Fire Administrator") and Police Alarm Administrator ("Police Administrator") and backup administrators who will be the primary points of contact between PSC and the COUNTY. The Administrators are responsible for overseeing PSC's operation of the False Alarm Management Services Program ("Program") and accessing Program information, as needed, via PSC provided online access;

2. Requesting or supporting PSC's requests of Alarm Companies, as needed, to provide alarm system information;

3. Making any and all decisions about alarm call response, determining whether calls are false alarms, providing any on-scene communication of alarm related information to alarm users, and for entering any alarm related information within the COUNTY CAD/911 system not updated by the bi-directional interface;

4. Extracting false alarm call incident data from the CAD/911 System and transferring this data electronically to PSC (via PSC's FTP site). The data extraction software is part of the SunGard CryWolf® bi-directional interface that will be installed and PSC will provide the COUNTY additional software for automating the daily transfer of alarm incident files to PSC;

5. Scheduling, conducting and making appeal decisions for any false alarm hearings;

6. Conducting any general public education programs on false alarms; and,

7. Transferring any and all financial information from the Program generated alarm reports to other the COUNTY financial systems, as needed.

The COUNTY is responsible for all costs of carrying out the COUNTY's responsibilities, including, but not limited to the costs of staff, facilities, computer equipment and consumable supplies.

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ATTACHMENT B PAYMENT TERMS

The following sections describe the CONTRACTOR's compensation for providing False Alarm Billing and Tracking Services to St. Lucie County.

Revenue (Collections) Sharing Approach and Ordinance Assumptions

The revenue-sharing approach requires no out-of-pocket or startup expenditures by the County. All proposed CONTRACTOR service fees will be based on a percentage of alarm program fees and fines collected. The alarm program collections will cover all software development, licensing, website hosting, SunGard CAD bi-directional interface (for all participating agencies), data conversion, equipment, postage, supplies and other costs incurred by the CONTRACTOR to provide the False Alarm Billing and Tracking Services described herein.

Alarm Ordinance Considerations

The CONTRACTOR's revenue sharing approach will depend on the COUNTY's final alarm ordinance. The CONTRACTOR assumes that the final ordinance will follow generally accepted alarm management practices:

- Be comprehensive, yet concise, similar to the Model Alarm Ordinance proposed
- by the Florida Police Chiefs Association (FPCA) and the Alarm Association of Florida (AAF);
- Treat fire alarms separate from burglary/robbery alarms because of the differences in response costs and typical clearance policies;
- Include an annual alarm system registration/permit fee to ensure an accurate inventory of alarm systems and up to date alarm site information;
- Include a penalty for unregistered/non-permitted alarm systems that generate false alarms in order to ensure registration compliance;
- Include an effective, graduated false alarm fee schedule that sanctions alarm system owners early, e.g. by the second false alarm, and sufficiently, to discourage false activations; and,
- Provide compliance mechanisms /sanctions for non-payment of alarm fees and fines (including late fees), delinquent third-party collection efforts, and, if necessary, an enforceable limited or non-response option.

For purposes of estimating the potential alarm program collections, the parties have agreed to use the following proposed false alarm fee schedule:

Alarm Within 12 Months	Fire/Rescue	Law Enforcement
First	\$0	\$0
Second	\$200	\$100
Third	\$300	\$200
Fourth	\$500	\$400
Fifth and Subsequent	\$500	\$500

Proposed Fee Estimate

Given these assumptions, the CONTRACTOR's compensation shall be calculated separately for Fire and Police alarms based on the following graduated revenue sharing schedule:

GRADUATED REVENUE SHARING PERCENTAGE (%) *See Note Below

Range of Collections Based on Annual Collection Periods	% Collections
0 - \$150,000	27%
\$150,001 - \$400,000	24%
\$400,001 and above	21%

Only bank fees, citizen overpayments (if any), and credit card fees (if any) will be withheld from gross collections before revenue sharing percentages are applied. The graduated percentages will be applied incrementally, e.g. \$1,000,000 in annual collections after bank and credit card fees would yield the following PSC revenue share: 27% of \$150,000 + 24% of \$250,000 + 21% of \$600,000, or a total of \$226,500 (22.65%) for PSC and \$773,500 (77.35%) to be divided among the County Agencies.

In addition, the CONTRACTOR shall pay SunGard for providing, installing and supporting its automated, bi-directional CAD-CryWolf interface.

Note: If the program assumptions and ordinance recommendations made above are not adopted and/or the fee and fine structure of the COUNTY's proposed new alarm ordinance varies significantly from the fee schedule above, the CONTRACTOR agrees to work with the County to seek a revised, mutually-agreeable Revenue Sharing calculation approach.

Mechanism for Revenue Share Calculation and Transfer

The following collection and payment transfer procedure will be used for revenue sharing:

- At the beginning of each month, the CONTRACTOR will reconcile all amounts collected during the previous month and provide the COUNTY with an invoice showing the fee calculation and supporting payment reconciliation. A breakdown of the COUNTY's total revenue share will be provided for the individual participating COUNTY Agencies based on an assignment approach mutually agreeable to the CONTRACTOR and the COUNTY at the beginning of the project.

on an assignment approach mutually agreeable to the CONTRACTOR and the COUNTY at the beginning of the project.

- Once the invoice is approved by the COUNTY, electronic transfers, e.g. ACH transfers, would be authorized to the COUNTY and to the CONTRACTOR for the resulting revenue share amounts.

Delinquent Account Terms

The parties shall define a mutually agreeable process and methods for collecting amounts due from delinquent accounts. If organizations other than the COUNTY and CONTRACTOR are retained to collect overdue amounts, the parties agree that the collection costs shall to the extent permitted by State of Florida law be added to the delinquent amounts owed by alarm system users and be borne by the parties on a pro-rata basis by deducting the third party collection fees from the gross third party collections before the revenue shares are calculated.

COUNTY Payment Upon Early Termination (Per Paragraph 17C)

If, within the initial two (2) years of the effective date, this Contract is terminated by the COUNTY for convenience under 17A, or is terminated by CONTRACTOR for cause as defined in Paragraph 17B, CONTRACTOR shall be due a one-time Program Termination fee, not to exceed \$48,000.00, to reimburse CONTRACTOR for startup costs. This fee shall be in addition to any other amounts due CONTRACTOR under the Contract. The \$48,000.00 shall be amortized (reduced) on a straight-line basis (\$2,000 per month) over the initial two (2) year period.

ORDINANCE NO. 2015-005

AN ORDINANCE AMENDING CHAPTER 18, ARTICLE IV, (ALARM SYSTEMS), OF THE CODE OF ORDINANCES OF ST. LUCIE COUNTY, FLORIDA, BY AMENDING SECTION 18-89 (DEFINITIONS) TO ADD CERTAIN DEFINITIONS; AMENDING SECTION 18-90 (AUTOMATIC DIALING DEVICE—INTERCONNECTING TO TRUNKLINES) TO PROVIDE FOR ISSUANCE OF CEASE AND DESIST ORDERS NOTICES; AMENDING SECTION 18-94 (ALARM PERMIT-REQUIRED) TO PROVIDE FOR THE COUNTY'S THIRD PARTY ADMINISTRATOR TO ADMINISTER THE PERMIT PROCESS; AMENDING SECTION 18-95 (SAME-APPLICATION) TO CLARIFY THE APPLICATION AND APPROVAL PROCESS; AMENDING SECTION 18-96 (SAME-TERM; FEE; NONTRANSFERABLE) TO REDUCE THE PERMIT TERM TO ONE YEAR AND PROVIDE SIX MONTH AMNESTY PERIOD FOR REGISTRATION OF PREVIOUSLY NON-PERMITTED ALARM SYSTEMS FOLLOWING ADOPTION OF ORDINANCE; AMENDING SECTION 18-97 (SAME-ISSUANCE) TO PROVIDE FOR THE COUNTY'S THIRD PARTY ADMINISTRATOR TO ISSUE PERMITS; AMENDING SECTION 18-98 (EXCESSIVE FALSE ALARM SIGNALS—GENERALLY) TO ESTABLISH INSTALLATION REQUIREMENTS AND DUTIES OF ALARM OWNERS AND ALARM COMPANIES; AMENDING SECTION 18-99 (SAME-FALSE ALARM DISPATCH CHARGES; COLLECTION) ESTABLISHING PROCEDURE FOR DETERMINATION OF FALSE ALARM AND NOTICE TO ALARM USER AND/OR RECORD TITLE OWNER; AMENDING SECTION 18-100 (DISBURSEMENT OF SERVICE CHARGES) TO ESTABLISH A REVISED FEE SCHEDULE FOR FALSE ALARMS; RENUMBERING SECTION 18-100 (DISBURSEMENT OF SERVICE CHARGES) TO SECTION 18-101 AND PROVIDING CLARIFICATION REGARDING THE RESPONDING AGENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR APPLICABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR ADOPTION; AND PROVIDING FOR CODIFICATION.

WHEREAS, the Board of County Commissioners of St. Lucie County, Florida, has made the following determinations:

1. On November 17, 1982, the Board adopted Ordinance No. 87-44 which created Chapter 1-2.5, "Alarm Systems", of the St. Lucie County Code of Ordinances and Compiled Laws, to establish standards and regulate intrusion, holdup, and other emergency signals from alarm users which require law enforcement and fire/rescue response or investigation.

2. On August 24, 1999, the Board adopted Ordinance No. 99-10 which amended Chapter 1-2.5 to clarify and strengthen the regulation of alarm systems in the County in order to better serve the residents of the County through more efficient use of law enforcement and fire/rescue services.

3. On August 12, 2014, the Board adopted Ordinance No. 14-020 which amended and recodified the St. Lucie County Code of Ordinances, including the recodification of Chapter 1-2.5 as Article IV (Alarm Systems) of Chapter 18, (Emergency Management and Emergency Services).

4. It is in the best interest of the health, safety and welfare of the County's residents to amend Article VI of Chapter 40 of the County Code of Ordinances to ensure consistency with the requirements of state law and to ensure flexibility in administration of the financing program.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of St. Lucie County, Florida, as follows:

PART A. Section 18-89 (Definitions) of Article IV (Alarm Systems) of Chapter 18 (Emergency Management and Emergency Services) of the Code of Ordinances of St. Lucie County is amended as follows:

Sec. 18-89. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. In those cases wherein a word or words are not defined, its definition shall be as found in Black's Law Dictionary, latest edition, or in American Heritage College Dictionary, third edition.

Alarm means a signal (audio or visual, recorded or live) transmitted to a law enforcement agency or the Fire District indicating a predetermined condition. Said alarm is received either:

(1) Via a private alarm service company relayed to a law enforcement agency or Fire District telephone.

(2) Via an audible/visual signal relayed to a law enforcement agency or Fire District by a third party.

Alarm permit means a permit issued by the county or its third party alarm administrator allowing the operation of an alarm system within the county.

~~Alarm system means an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police or fire are expected to respond. This definition does not include alarm systems on motor vehicles or proprietary systems. If, however, an alarm system on a motor vehicle is connect with an alarm system on a premises (other than a proprietary system), the system is an alarm as defined in this article. This definition also does not include alarm systems that are used only to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. If such a system however, employs an audible signal emitting~~

~~sounds or a flashing light or beacon designed to signal persons outside the premises, such a system shall be subject to the provisions of this article~~ any assembly of equipment, mechanical or electrical, arranged to:

(1) Signal the occurrence of a forced entry, fire, or other activity requiring urgent attention and to which law enforcement or the Fire District is expected to respond, and/or.

(2) Monitor and/or annunciate the status of alarm or supervisory devices.

~~Alarm user means any person who uses an alarm system at its alarm site or on whose premises an alarm system, as defined in this article is maintained within the county~~ the person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure or facility or portion thereof wherein an alarm system is maintained.

~~Burglar alarm means an alarm system designated to indicate a condition of illegal forced entry or illegal attempted forced entry.~~

~~Burglar alarm system refers to an alarm system signaling an entry or attempted entry into the area protected by the system.~~

~~County means, St. Lucie County, and for the purposes of this section only shall include the City of Fort Pierce, the City of Port St. Lucie, and the St. Lucie County Fire District, unless otherwise specified.~~

~~False alarm means the activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the owner, user, custodian, or lessee of an alarm system, or his employees or agents that results in dispatch of law enforcement agency or fire district personnel requiring an emergency response, when in fact an emergency does not exist or the activation of the alarm, whether intentional or unintentional. False alarms do not include:~~

- ~~(1) Alarms caused by hurricanes, tornadoes, earthquakes or other violent conditions.~~
- ~~(2) Alarms transmitted because of a water main break or similar causes that occur outside of the protected property.~~
- ~~(3) Alarms covered by F.S. Sections 401.44 and Section 806.101.~~
- ~~(4) Alarms transmitted from an occupied residential dwelling unit, except where the alarms is activated as a result of the negligence of the owner, lessee or occupant of the occupied residential dwelling unit.~~

~~Fire alarm means an alarm system designated to indicate the presence of fire or smoke is in progress immediately preceding the alarm.~~

~~Fire alarm systems refers to a signal or message from a person or device indicating the existence of a fire or other emergency which required fire department action and shall mean any devise designed for the detection of the products of combustion, or a system which depends on a manual initiation to inform others of the presence of fire, or both, which device when activated, emits a sound or transmits a signal beyond the premises.~~

Fire department means the county fire district.

Fire District means the St. Lucie County Fire District.

Law enforcement agency, means the St. Lucie County Sheriff's Office, the City of Fort Pierce Police Department and/or the City of Port St. Lucie Police Department.

Medical alarm means an alarm system designated to signal the presence of a hazard requiring urgent attention and to summon emergency medical personnel.

Record title owner means the person or persons in whose name title to real property are recorded on the public records.

Robbery alarm means an alarm system designated to indicate a robbery (holdup) is in progress immediately preceding the alarm, or the activation of a device designed to signal duress or the activation of a device to signal an ambush is in progress immediately preceding the alarm.

PART B. Section 18-90 (Automatic dialing device – Interconnecting to trunklines) of Article IV (Alarm Systems) of Chapter 18 (Emergency Management and Emergency Services) of the Code of Ordinances of St. Lucie County is amended as follows:

Sec. 18-90. Automatic dialing device—Interconnecting to trunklines.

(a) No automatic dialing device shall be interconnected to any primary or special trunkline at any law enforcement agency or fire department in the County or the 911 communications center unless under special investigative purposes as authorized by the chief executive of the law enforcement agency, the fire marshal or the public safety director.

(b) If a law enforcement agency has knowledge of the unlawful maintenance of an automatic telephone dialing alarm system installed, or operated in violation of Sec. 18-90(a), it shall, in writing, order the owner, operator or lessee to disconnect and cease operation of the system within seventy-two (72) hours of receipt of the order.

(c) Any automatic telephone dialing system installed as set forth in Sec. 18-90(a), prior to the effective date of Ordinance No. 2015-5 shall be removed within forty-five (45) days of the order as referenced in Sec. 18-90(b).

PART C. Section 18-94 (Alarm permit-Required) of Article IV (Alarm Systems) of Chapter 18 (Emergency Management and Emergency Services) of the Code of Ordinances of St. Lucie County is amended as follows:

Sec 18-94 Alarm permit–Required.

~~(a) No person shall install, maintain, or operate an alarm systems serving a premises or building, or portion thereof, in the unincorporated areas of the county, unless an alarm permit in the form of a decal has been issued hereunder, and is in force, authorizing the use of alarm. For any alarm systems existing prior to the effective date the ordinances from which this article is derived, an alarm permit application shall be made within 60 days of the effective date hereof. It shall be unlawful for any person or company to operate, monitor, or be responsible~~

~~for an alarm system, without prior registration with law enforcement the entity designated by the County. This shall apply to both commercial and residential systems. A separate permit is required for each alarm site. There is no registration fee.~~

- ~~(b) Any after-the-fact permit issued to persons who initially failed to obtain permit shall be issued at twice the cost of the permit fee. Each person or company which operates, monitors, or has responsibility for alarm systems, who notifies the county of an alarm activation, shall at the time of notification, disclose the name, address, telephone number, and permit number of the alarm user to the county.~~
- ~~(c) The alarm permit sticker shall be displayed in a conspicuous location on the main entrance to the building or facility serviced by the alarm.~~

PART D. Section 18-95 (Same--Required) of Article IV (Alarm Systems) of Chapter 18 (Emergency Management and Emergency Services) of the Code of Ordinances of St. Lucie County is amended as follows:

Sec. 18-95. Same--Application.

~~(a) Information required. Application for alarm permits shall be made to the tax collector on forms provided by the tax collector. The application shall be signed by the alarm user and shall provide the following information:~~ Any person desiring an alarm system permit shall file an application with the county's third party alarm administrator on a form provided by the administrator manually or electronically which includes but is not limited to, the following information:

~~(1) Name, address and telephone number of the alarm user, and, if different, the name, address and telephone number of the person responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this article. The name and address of the applicant;~~

~~(2) Address and telephone number of the alarm user's premises or building to be served by the alarm. If different than above, the address at which the alarm system is to be installed and used;~~

~~(3) The name, address and telephone number of the persons in charge of the premises or building served by the alarm. If the applicant is a corporation the names and addresses of its principal officers;~~

~~(4) The classification of the alarm system as either commercial or residential. If the applicant is a partnership, association, or other business entity, the names and addresses of the partners or persons comprising the same;~~

~~(5) Whether the building is rented or owner-occupied. A description of the alarm system proposed to be installed, including the manufacturer's name and model number, if any;~~

~~(6) For each alarm system at the alarm site, the purposed of the alarm systems, i.e., burglary, hold-up, duress, fire, or other. For residential properties: the names, addresses and telephone numbers of two (2) or more persons who will be available to secure the premises during any hour of the day or night; For commercial properties: the names, addresses, and telephone numbers of three (3) or more persons who will be available to secure the premises during any hour of the day or night;~~

(7) Classification of the alarm site as being equipped or non-equipped for duress alarm. Any such additional information that the County may deem necessary in order to fully and properly administer this chapter.

~~(8) Signed certification from the alarm user and the alarm business stating:~~

- ~~a. The date of installation, conversion or takeover of the alarm system, whichever is applicable.~~
- ~~b. The name, address, and phone number of the alarm business performing the alarm system installation, conversion or alarm system takeover and responsible for providing repair service to the alarm system;~~
- ~~c. The name, address and phone number of the alarm business monitoring the alarm system if different from the installing alarm business;~~
- ~~d. That a set of written operating instructions for the alarm system, including written guidelines on how to avoid false alarms, have been left with the applicant; and,~~
- ~~e. That the alarm business has trained the applicant in proper use of the alarm system, including instructions on how to avoid false alarms.~~

(b) Amended application. An amended application shall be filed within ten days after any change in the information provided in such application. Upon amendment of ownership or changes in the nature of the system, a new alarm permit shall be required. Whenever any change occurs relating to the information required by this section, the applicant or permittee shall give written notice thereof to the County third party alarm administrator within ten days after such change.

(c) An alarm system permit may be denied if the application is not in the proper form, does not contain all information, or fees required by this chapter are not paid.

(d) To the extent allowed by law and in the interest of public safety, all information contained in and gathered through the alarm permit applications, records relating to alarm dispatch requests, and applications for appeals shall be privileged information held in confidence by all employees or representatives of the County and by any third-party administrator or employees of a third-party administrator with access to such information.

PART E. Section 18-96 (Same—Term; fee; nontransferable) of Article IV (Alarm Systems) of Chapter 18 (Emergency Management and Emergency Services) of the Code of Ordinances of St. Lucie County is amended as follows:

Sec. 18-96. Same--Term; fee; nontransferable.

- (a) An alarm permit shall have a term of two years from date of issuance, such term to begin October 1, and end September 30. Any alarm permit issued after October 1 will be valid for the following two years through September 30. Alarm System Permits are issued for a period of one (1) year and will expire 365 days after the date of issuance or renewal, unless otherwise suspended or revoked at an earlier time. Upon expiration of an alarm system permit, a renewal permit must be obtained

- (b) in the manner specified by the county before an alarm system may continue in use.
- (c) ~~A fee of \$10.00 shall be charged to the alarm user by the county for each permit issued, including successive renewal permits, to defray the cost of regulation. Alarm permits may not be transferred to another person or alarm site. Permits are valid only for the permittee and address listed on the permit.~~
- (d) ~~Any alarm permit issued pursuant to this article shall not be transferable or assignable and shall cover only one building or premises.~~ An alarm user shall inform the ~~tax collector~~ County's third party alarm administrator of any change that alters any information listed on the permit application within ten working days.
- (e) It is the responsibility of the alarm user to submit a renewal application prior to the permit expiration date. Failure to renew shall be classified as use of a non-permitted alarm system and citations and penalties shall be assessed without waiver.
- (f) Within six (6) months of the effective date of this ordinance any person who has a pre-existing alarm system which was not installed under a permit may obtain an installation permit for the scheduled fee without a penalty.

PART F. Section 18-97 (Same--Issuance) of Article IV (Alarm Systems) of Chapter 18 (Emergency Management and Emergency Services) of the Code of Ordinances of St. Lucie County is amended as follows:

Sec. 18-97. Same—Issuance.

An alarm permit shall be mailed to the alarm user by the ~~tax collector~~ County's third party alarm administrator at the address of the alarm user sated on the application within ten days after receipt of the completed application by the ~~tax collector~~ County's third party alarm administrator. An alarm permit shall be denied if:

- (a) The requested information is not supplied on the application.
- (b) Material information on the application is incorrect.
- (c) Any person or entity listed on the application as responsible for the installation, maintenance and/or monitoring of the alarm system does not possess any required occupational or regulatory license to conduct such activities unless the person or entity is the alarm user.
- (d) All false alarm dispatch charges for excessive false alarms owed by the alarm user have not been paid.
- (e) The alarm user had an alarm permit for the alarm site suspended or revoked, and the violation causing the suspension or revocation has not been corrected.

PART G. Section 18-98 (Excessive false alarm signals—Generally) Alarm permit-Required) of Article IV (Alarm Systems) of Chapter 18 (Emergency Management and Emergency Services) of the Code of Ordinances of St. Lucie County is amended as follows:

Sec. 18-98. ~~Excessive false alarm signals—Generally.~~ Installation requirements; duty of owners; duties of alarm companies.

- ~~(a) No person shall allow, permit, cause or fail to prevent the emission, for any reason, by any alarm used by him, or any alarm serving a premises or a building occupied and controlled by such person, of more than three false alarms within any one-year period of time.~~
- ~~(b) The emission of more than three false alarms within any one-year period of time is excessive and constitutes a serious public nuisance, and is subject to false alarm dispatch charges set out in section 18-99.~~
- ~~(c) In the event an alarm system emit five or more false alarms within any one-year period, law enforcement officers shall only respond to panic and/or hold up alarms from the system until all false alarm dispatch charges pursuant to section 18-99 for the system are paid or otherwise resolved pursuant to section 18-99, and until the alarm user provides written documentation to the sheriff or fire marshal, as appropriate, of inspection, modification, or training as set forth in section 18-93(h) within 30 days of the false alarm dispatch which necessitate such service.~~

(a) Prior to the activation or substantial modification or use of an alarm system, as defined in 18-89, the owner, manager, or lessee of the premises shall furnish to the County's third party alarm administrator on a form provided by the County's third party alarm administrator manually or electronically which includes information deemed necessary to provide adequate response to the alarm.

(b) Owners, managers or lessees of existing alarm systems as defined in Sec. 18-89 shall have thirty (30) days from the effective date of this ordinance to comply with the above notice requirements.

(c) Owners, manager or lessees, or agents of any alarm system shall respond to the alarm location, when requested, in order to reset or deactivate the alarm system within a reasonable time of notification. Failure to provide such access shall result in a false alarm assessment as provided in Sec.18-100.

(d) Prior to the activation or use of any type of general alarm device the owner, manager or lessee of the premises shall furnish to the County's third party alarm administrator, information regarding the full names, addresses and telephone numbers of at least three (3) persons for commercial properties and two (2) persons for residential properties who can be reached at all times and who are authorized and have the capability to enter the premises and deactivate the alarm device. Owners, managers or lessees of the premises with alarm devices already installed shall have thirty (30) days from the effective date of this ordinance to comply with the above notice requirement. It shall be the responsibility of the owner, manager or lessee of the premises to provide an updated list annually to the County's third party alarm administrator. Failure to do so may result in a false alarm assessment subject to the sanctions of Sec. 18-100.

(e) All burglar alarm systems having an audible or visual signal at the premises shall be equipped so as to automatically shut off the audible or visual signal after fifteen (15) minutes, except those systems required by law to have a longer operating period, in which case said system shall be equipped so as to automatically shut off the audible or visual signal at the conclusion of the longer required operating time.

(f) All alarm systems shall be properly maintained. System malfunction due to faulty maintenance shall not be grounds for an excused false alarm assessment.

(g) All alarm systems shall obtain all necessary permits and inspections for the installation of the system.

(h) All alarm companies that sell, lease, install, operate, monitor or have the responsibility for alarm systems, shall maintain the appropriate license as required under Chapter 489, Florida Statutes, and shall register annually with the County. A fine of \$500.00 shall be assessed to any alarm monitoring company who fails to register. Each registration shall be valid for twelve (12) months. The alarm monitoring company shall provide the following information:

(1) Name, street address and telephone number. Monitoring companies shall maintain, for a period of at least one year, records relating to alarm notification and shall provide such records to the County's third party alarm administrator upon request, or a fine of \$125.00 shall be assessed.

(2) The names, street addresses, and telephone numbers of all contracted alarm operators within the territorial jurisdiction of the County.

(3) The procedure used to verify the legitimacy of an alarm prior to notification of County law enforcement.

(4) The name, street address, and telephone number of the alarm company.

(i) An alarm company performing monitoring services shall:

(1) Attempt to verify, by calling the alarm site and/or alarm user by telephone, to determine whether an alarm signal is valid before requesting dispatch. Telephone verification shall require, as a minimum, that a second call be made to a different number, if the first attempt fails to reach an alarm user who can properly identify themselves to attempt to determine whether an alarm signal is valid, except in the case of a panic or robbery-in-progress alarm, or in cases where a crime-in-progress has been verified by video and/or audible means.

(2) Provide alarm user registration number, when available, to the communications center to facilitate dispatch and/or cancellation.

(3) Communicate any available information about the location of the alarms to the communications center.

(4) Communicate a cancellation to the communications center as soon as possible following a determination that a response is unnecessary.

PART H. Section 18-99 (Same—False alarm dispatch charge; collection) of Article IV (Alarm Systems) of Chapter 18 (Emergency Management and Emergency Services) of the Code of Ordinances of St. Lucie County is amended as follows:

Sec. 18—99. ~~Same—False alarm dispatch charge; collection~~ Response to alarms; determination of validity.

(a) For response to excessive false alarms by law enforcement agencies, the alarm user shall be charged a service fee by the county of \$55.00 for the first alarm in excess of three false alarms in any one-year period, \$80.00 for the second false alarm in excess of three in any one-year

~~period, and \$105.00 for the third and each successive false alarm in excess of three in any one-year period. For response to excessive false alarms by the fire department, the alarm user shall be charged a service fee by the county of \$130.00 for the first alarm in excess of three false alarms in any one-year period, \$155.00 for the second false alarm in excess of three false alarms in any one-year period, and \$205.00 for the third and each successive false alarm in excess of the three in any one-year period. The law enforcement executive or fire marshal shall determine whether a false alarm has occurred and the frequency of such false alarms, and the tax collector or other person designated by the board shall invoice alarm users of amounts owed to the county and shall make demand thereof, pursuant to the provision of this section. Payment of such charges shall be due within ten working days of the date of receipt of the invoice. Payment shall be by money order, certified, check or cash only. In the event an alarm user does not remit payment of the charge in a timely manner as provided herein, the tax collector shall notify the sheriff or the fire marshal, as appropriate, that the charge is past due. The sheriff or the fire marshal, as appropriate, shall then make an effort to collect said charge. In the event the sheriff or fire marshal is unable to collect said charge in a timely manner, the sheriff or fire marshal, as appropriate, shall file a complaint with the county code enforcement division regarding the alarm user's failure to pay the charge in a timely manner. Upon receipt of such complaint, the code enforcement division shall initiate enforcement proceedings in accordance with chapter 2, article II, division 1 and such violations shall be subject to the penalty and enforcement provisions as therein provided in addition to the charges provided in this section. Whenever an alarm is activated in the county, thereby requiring an emergency response to the location by law enforcement and/or the fire district, and the management of the alarm site does not respond, a police officer or firefighter on the scene of the activated alarm system shall visually inspect the area protected by the system and shall exercise reasonable judgment to determine whether the emergency response was in fact required as indicated by the alarm system or whether in some way the alarm system malfunctioned and thereby activated a false alarm.~~

- (b) If a police officer or firefighter at the scene of the activated alarm system determines the alarm to be false, said officer shall make a report of the false alarm, a notification of which shall be mailed or delivered by the third party alarm administrator to the alarm user and/or record title owner at the address on file with law enforcement, advising the alarm user and record title owner of the false alarm.
- (c) Law Enforcement shall have the right to inspect any alarm system on the premises to which a response has been made and they may cause an inspection of such system to be made at any reasonable time thereafter to determine whether it is being used in conformity with the terms of this chapter.
- (d) All false alarm dispatch charges collected as the result of such enforcement shall only be used to offset the costs incurred in responding to false alarms and administration of the alarm systems ordinance.

PART I. Section 18-100. (Classifying alarms; fees charged) of Article IV (Alarm Systems) of Chapter 18 (Emergency Management and Emergency Services) of the Code of Ordinances of St. Lucie County is amended as follows:

Sec. 18-100. Classifying alarms; fees charged.

(a) For each response by any emergency unit of the County to an alarm the responding agency will file a report, classifying the alarm as one of the following:

- (1) False alarm, system test with no notification or system malfunction.
- (2) False alarms, no system test, no owner response
- (3) Valid alarm for cause designated.

(b) There shall be a fine charged for false alarms according to the following schedule during a rolling twelve month period:

<u>Alarm Within 12 Months</u>	<u>Fire/Rescue</u>	<u>Law Enforcement</u>
<u>First</u>	<u>\$0</u>	<u>\$0</u>
<u>Second</u>	<u>\$200</u>	<u>\$100</u>
<u>Third</u>	<u>\$300</u>	<u>\$200</u>
<u>Fourth</u>	<u>\$500</u>	<u>\$400</u>
<u>Fifth & Subsequent</u>	<u>\$500</u>	<u>\$500</u>

(c) Alarm Companies shall not activate the alarm system prior to the registration. If a false alarm occurs prior to the registration of the alarm permit, the alarm monitoring company will be charged a fine of \$250.00. If the alarm system is self-monitored the alarm user will be charged a fine of \$50.00, which may be waived if the alarm permit is registered within thirty (30) days.

(d) In addition, any person operating a non-permitted Alarm System will be subject to an additional fine of \$50.00. This fee may be waived if the permit is registered in fifteen (15) days.

PART J. Section 18-100 (Disbursement of service charges) of Article IV (Alarm Systems) of Chapter 18 (Emergency Management and Emergency Services) of the Code of Ordinances of St. Lucie County is amended as follows:

Sec. ~~18-100~~101. Disbursement of service charges.

Service charges will be disbursed to the fine and forfeiture accounts of each responding law enforcement agency and/or the general fund of the county fire district ~~which responded to the false alarm~~ or in a manner as agreed to by all affected agencies. Pursuant to F.S. Section 30.51, all service fees and charges assessed for services of the Sheriff shall be remitted to the county.

PART K. SEVERABILITY.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the District that the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

PART L. FILING WITH THE DEPARTMENT OF STATE.

The Clerk is hereby directed forthwith to send a certified copy of this ordinance to the Bureau of Administrative Code and Laws, Department of State, the Capitol, Tallahassee, Florida 32304.

PART M. EFFECTIVE DATE.

This Ordinance shall take effect on October 1, 2015.

PART N. ADOPTION.

After motion and second, the vote on this ordinance was as follows:


Chair Paula A. Lewis	AYE
Vice Chair Kim Johnson	AYE
Commissioner Chris Dzadoovsky	AYE
Commissioner Tod Mowery	AYE
Commissioner Frannie Hutchinson	AYE

PART O. CODIFICATION.

Provisions of this ordinance shall be incorporated in the Code of Ordinances of St. Lucie County, Florida, and the word "ordinance" may be changed to "section," "article," or other appropriate word, and the sections of this ordinance may be renumbered or relettered to accomplish such intention; provided, however, that Parts K through O shall not be codified.

PASSED AND DULY ADOPTED this 19th day of May, 2015.

ATTEST:


Deputy Clerk

**BOARD OF COUNTY COMMISSIONERS
ST. LUCIE COUNTY, FLORIDA**

BY: 
Chair

**APPROVED AS TO FORM AND
CORRECTNESS:**

BY: 
County Attorney



RECEIVED

JUN 01 2015

COUNTY ATTORNEY

FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

May 29, 2015

Honorable Joseph E. Smith
Clerk of the Circuit Court
St. Lucie County
2300 Virginia Avenue
Fort Pierce, Florida 34982

Attention: Ms. Sue Korunow, Recording Secretary/Finance Assistant

Dear Mr. Smith:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of St. Lucie County Ordinance No. 2015-005, which was filed in this office on May 29, 2015.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

A handwritten signature in the bottom right corner, appearing to be "Reddick".

THIS MEMORANDUM IS A COMMUNICATION FROM COUNSEL TO AGENTS AND REPRESENTATIVES OF THE CITY OF FORT PIERCE IN AN ATTORNEY/CLIENT RELATIONSHIP AND IS THEREFORE CONFIDENTIAL AND IS FURTHER PROTECTED BY FLORIDA STATUTE SECTION 119.07 AS IT CONTAINS WORK PRODUCT OF THE ATTORNEY PREPARED IN ANTICIPATION OF, OR IN CONNECTION WITH, POTENTIAL OR PENDING ADVERSARIAL ADMINISTRATIVE PROCEEDINGS AND/OR CIVIL LITIGATION.

CITY OF FORT PIERCE - OFFICE OF THE CITY ATTORNEY

MEMORANDUM

TO: Diane Hobley-Burney, Chief of Police (*via email*)
FROM: Robert V. Schwerer, City Attorney
SUBJECT: Alarm Ordinance
DATE: June 15, 2015

As you are aware, we have completed our legal review of the proposed Alarm Ordinance which was developed by a joint committee of staff from St. Lucie County, Fort Pierce, and Port St. Lucie, the attached being the County's ordinance which is intended to apply countywide. Legal has determined the ordinance to be technically sufficient. In order for the County's ordinance to be applied in Fort Pierce, we will need to adopt a special ordinance, and can assist in the preparation of such ordinance once you confirm that the County has adopted the ordinance and is asking Fort Pierce and Port St. Lucie to make it applicable within their respective city limits.

Upon detailed review of the proposed Alarm Ordinance, notwithstanding its technical sufficiency we would offer the following comments and suggestions.

First, there are no appeal provisions within the ordinance. Ordinarily, in situations where fines of this nature are levied, the alarm owner should be provided some mechanism to challenge the imposition of a fine if they have a factual or legal defense. We have brought this to the attention of both the County and PSL. The County indicates they are working toward adopting some form of appeal procedure, possibly by resolution. PSL legal is concerned about the absence of an appeal provision, but is uncertain what their approach to the issue will be. Our suggestion is that Fort Pierce should consider

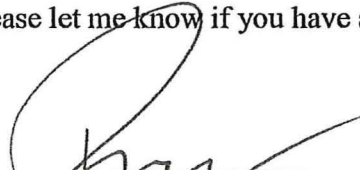
Frank Amandro, Deputy Police Chief
June 15, 2015
Page 2 of 2

providing for an appeal procedure that would provide for appeals to be considered by one of our Special Magistrates who preside over code cases. The procedure for such appeals can be developed separate from the ordinance text itself.

Second, we note this is intended to be a countywide ordinance applicable to both Fort Pierce and PSL. However, we would be remiss in not pointing out the substantial changes from the previous ordinance especially the amount of the fines. Previously, the homeowner was permitted up to three (3) false alarms before being subjected to fines. Now there is only one. Additionally, the amount of the fine is substantially increased, and can be "stacked" (i.e. doubled in amount) if both Law Enforcement and Fire respond to the same false alarm. These are policy decisions to be decided by the Commission and Management.

Finally, we recommend that someone be prepared to show the amount and number of false alarms occurring in Fort Pierce from previous years to document the need for increased fines which are being imposed presumably to cover costs of needless responses.

Please let me know if you have any questions concerning the above.



Robert V. Schwerer, Esq.
City Attorney

/mlp
Attachment

cc: Fort Pierce Mayor and Commissioners (*via email*)
Robert J. Bradshaw, City Manager (*via email*)
Nicholas Mimms, Deputy City Manager (*via email*)
Frank Amandro, Deputy Police Chief (*via email*)
James T. Walker, Assistant City Attorney (*via email*)
Karen Emerson, Assistant City Attorney (*via email*)

ARTICLE II. - ALARM SYSTEMS

FOOTNOTE(S):

--- (3) ---

Editor's note—Ord. No. I-245, Pt. A, adopted Dec. 7, 1987, amended this Code with provisions relative to alarm systems but did not specify the manner of inclusion. At the discretion of the editor, the provisions of ordinance Pts. A and C have been added as Ch. 14, Art. II, §§ 14-16—14-26, and the existing provisions of Ch. 14 pertaining to the police department have been redesignated as Art. I.

Sec. 14-16. - Short title.

This article shall be known and may be cited as "The City of Fort Pierce Alarm Systems Ordinance."

(Ord. No. I-245, Pt. A, 12-7-87)

Sec. 14-17. - Purpose.

The purpose of this article is to establish standards and regulate the various types of intrusion, hold-up and other emergency signals from alarm users that require police and fire response or investigation.

(Ord. No. I-245, Pt. A, 12-7-87)

Sec. 14-18. - Definitions.

Unless it is apparent from the context that another meaning is intended, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Alarm agent. The term "alarm agent" means any person employed by an alarm business whose duties include altering, installing, maintaining, moving, repairing, replacing, selling, servicing and responding to an alarm system.

Alarm business. The term "alarm business" means any business operated by a person for a profit which engages in the activity of altering, installing, maintaining, moving, repairing, replacing, selling, servicing and responding to an alarm system.

Alarm system. The term "alarm system" means an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police or fire are expected to respond. This definition does not include alarm systems on motor vehicles or proprietary systems. If, however, an alarm system on a motor vehicle is connected with an alarm system on premises (other than a proprietary system), the system is an alarm system as defined in this section. This definition also does not include alarm systems which are used only to alert or signal persons located within the premises in which the alarm system is located of an attempted unauthorized intrusion or hold-up attempt. If such a system, however, employs an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, such a system shall be subject to the provisions of this article.

Alarm user. The term "alarm user" means any person on whose premises an alarm system, as defined in this section, is maintained within the City of Fort Pierce.

Annunciator. The term "annunciator" means the instrumentation on an alarm console at the receiving terminal of a signal line which, through both visual and audible signals, shows when an alarm device at a particular location has been activated or when line trouble is indicated.

A.N.S.I. The abbreviation "A.N.S.I." stands for the American National Standards Institute.

Answering service. The term "answering service" refers to a telephone answering service providing, among its services, the service of receiving emergency signals from alarm systems on a continuous basis, directed through trained employees, and thereafter immediately relaying the message by live voice to the 911 communications center.

Automatic dialing device. The term "automatic dialing device" refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designated to detect.

Automatic hold-up alarm system. The term "automatic hold-up alarm system" means an alarm system in which the signal transmission is initiated by the action of the intruder.

Burglar alarm system. The term "burglar alarm system" refers to an alarm system signaling an entry or attempted entry into the area protected by the system.

Central station. The term "central station" means an office to which remote alarm and supervisory signaling devices are connected where operators supervise the circuits.

Central station equipment. The term "central station equipment" refers to the signal receiving, recording or retransmitting equipment installed in the central station.

Central station system. The term "central station system" means a system in which operation of electrical protection circuits and devices are signaled automatically to, recorded in, maintained and supervised from a central station having trained operators in attendance at all times.

City and county. The word "city" means City of Fort Pierce, Florida, and the word "county" means St. Lucie County, Florida.

Direct connect. The term "direct connect" means an alarm system which has the capability of transmitting system signals to and receiving them at an agency maintained by the local government; for example, a police communication center.

Direct line. The term "direct line" means a telephone line leading directly from a central station to the communication center of 911 and the fire department, which is for use only to report emergency signals on a person-to-person basis. Direct lines are not permitted to any law enforcement center.

False alarm. The term "false alarm" means the activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence of the owner or lessee of an alarm system or of his employees or agents, which results in dispatch of law enforcement agency or fire district personnel. False alarms do not include:

- (1) Alarms caused by hurricanes, tornadoes, earthquakes or other violent conditions;
- (2) Alarms transmitted because of a water main break or similar causes that occur outside of the

protected property;

- (3) Alarms covered by Sections 401.44 and 806.101, Florida Statutes;
- (4) Alarms transmitted from an occupied residential dwelling unit, except where the alarm is activated as a result of the negligence of the owner, lessee or occupant of the occupied residential dwelling unit.

Fire alarm systems. The term "fire alarm systems" refers to a signal or message from a person or device indicating the existence of a fire or other emergency which requires fire department action and shall mean any device designed for the detection of the products of combustion, or a system which depends on a manual initiation to inform others of the presence of fire, or both, which device when activated emits a sound or transmits a signal beyond the premises.

Fire department. The term "fire department" means the St. Lucie County/Fort Pierce fire district.

Fire marshal. The term "fire marshal" means the certified person designated as fire marshal by the St. Lucie County/Fort Pierce fire district or any authorized agent thereof.

Hold-up alarm system. The term "hold-up alarm system" refers to an alarm system signaling a robbery or attempted robbery.

Interconnect. The term "interconnect" means to connect an alarm system to a voice-grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

Law enforcement agency. The term "law enforcement agency" means any governmental agency or subunit thereof, providing law enforcement services within St. Lucie County, or any authorized agent thereof.

Law enforcement executive. The term "law enforcement executive" means the sheriff and/or police chiefs in St. Lucie County, or their designated representatives.

Local alarm system. The term "local alarm system" refers to a signaling system which when activated causes an audible and/or visual signaling device to be activated in or on the premises within which the system is installed.

Manual hold-up alarm system. The term "manual hold-up alarm system" refers to an alarm system in which the signal transmission is initiated by the direct action of the person attacked or by an observer of the attack.

Modified central station. The term "modified central station" means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise the circuits. Such a modified central station is not listed by Underwriters' Laboratories.

Occupied residential dwelling unit. The term "occupied residential dwelling unit" means an occupied dwelling that is used as a residence by a single housekeeping unit.

Person. The term "person" means any person, firm, partnership, association, corporation, company or organization of any kind.

Primary trunkline. The term "primary trunkline" means a telephone line, leading directly into the

communication center of any law enforcement agency, which is for the purpose of handling emergency calls on a person-to-person basis and which is identified as such by a specific number included among the emergency numbers listed in the telephone directory issued by the telephone company and covering the service area within the City of Fort Pierce.

Proprietary system. The term "proprietary system" means an alarm system sounding and/or recording alarm and supervisory signals at a control center located within the protected premises, the control center being under the supervision of the proprietor of the protected premises. If a proprietary system includes a signal line connected directly or by means of automatic dialing device to a police communication center, a central station or answering service, the system is an "alarm system" as defined in this section.

Remote signaling system. The term "remote signaling system" means an alarm signaling system which when activated by an alarm device transmits a signal from an alarm signaling device to a central location, other than the law enforcement agency, fire district and/or the 911 center, where appropriate action is taken to investigate and respond to the signal.

Signal line. The term "signal line" refers to the transmission line through which the signal passes from one of the elements of the signal transmission [system] to another.

Special trunkline. The term "special trunkline" means a telephone line leading into the communication center of any law enforcement agency and having the primary purpose of handling emergency signals or messages originating either directly or through a central location from automatic dialing devices.

Subscriber. The term "subscriber" means a person who buys and/or leases, or otherwise obtains, an alarm signaling system and thereafter contracts with or hires an alarm business to monitor and/or service the alarm device.

Telephone company. The term "telephone company" means the utility that furnishes telephone services to the citizens of the City of Fort Pierce, St. Lucie County, Florida.

U.L. The abbreviation "U.L." stands for Underwriters' Laboratories.

(Ord. No. I-245, Pt. A, 12-7-87)

Sec. 14-19. - Automatic dialing device—Interconnecting to trunklines.

No automatic dialing device shall be interconnected to any primary or special trunkline at any law enforcement agency or fire department in the City of Fort Pierce, St. Lucie County, unless under special investigative purposes as authorized by the chief executive of the law enforcement agency or the fire marshal for said county.

(Ord. No. I-245, Pt. A, 12-7-87)

Sec. 14-20. - Same—Operating instructions service.

(a) Every alarm business selling or leasing to any person an automatic dialing device, which is installed on such person's premises in the county after the effective date of this article, shall furnish that person with instructions which provide adequate information as required by the National Fire Protection Association Standards to enable persons using such device to operate it properly and, if the device is to be serviced or maintained by another alarm business, shall furnish such other alarm business with a manual or other information, including a diagram of the final installation, necessary

to enable it to service or properly maintain such device.

- (b) If the law enforcement executive or fire marshal responsible finds such instructions to be incomplete or unclear, or inadequate to explain how the device operates and is constructed, he may require the alarm business to revise the instructions and mail them out by certified letter to provide adequate information and then to distribute the revised information to persons who have had such devices installed, as well as to persons subsequently having such devices installed.
- (c) Every alarm business selling or leasing to any person an automatic dialing device, which is installed on such person's premises in the city after the effective date of this article shall furnish to the person buying or leasing such device written information and training concerning how service may be obtained at any time, including telephone number to call for service.

(Ord. No. I-245, Pt. A, 12-7-87)

Sec. 14-21. - Direct connections to law enforcement agencies and/or fire department.

No direct connections shall be permitted in the City of Fort Pierce, unless authorized by the chief executive of the law enforcement agency or the fire marshal for said city.

(Ord. No. I-245, Pt. A, 12-7-87)

Sec. 14-22. - Equipment maintenance.

- (a) Each subscriber, at his expense, is required to maintain all components of his alarm system in good working order at all times to ensure that the sensory mechanism used in connection with such device is adjusted to suppress false indications of hold-ups or intrusions or fire or smoke conditions, so that the device will not be activated by impulses due to short flashes of light, wind, noises, vehicular noise or other forces unrelated to genuine alarms.
- (b) No alarm system designed to transmit emergency messages shall be tested or demonstrated without first notifying the central station, 911 central communications and the fire department.
- (c) Fire alarm systems shall be required to have a maintenance contract for testing and inspections, in accordance with National Fire Protection Association (NFPA) standards; for example, smoke and/or heat detectors, manual pull stations and water flow alarms (sprinkler systems). Copies of the maintenance contract and test results of the fire alarm system shall be forwarded to the fire marshal within thirty (30) days from the date of the test.

(Ord. No. I-245, Pt. A, 12-7-87)

Sec. 14-23. - Alarm permit required; application; term; fee; issuance.

- (a) *Required.* No person shall install or operate an alarm system serving a premises or a building, or portion thereof, unless an alarm permit in the form of a decal has been issued hereunder and is in force authorizing the use of such alarm. For any alarm system existing prior to the effective date of this article, an alarm permit application shall be made within sixty (60) days of the effective date hereof. Any after-the-fact permit issued to persons who initially failed to obtain a permit shall be issued at twice the cost of the permit fee.
- (b) *Application.* Applications for alarm permits shall be made to the St. Lucie County Tax Collector on forms provided by the tax collector. The application shall be signed by the alarm user and shall provide the following information:
 - (1) Name, address and telephone number of the alarm user;
 - (2) Address and telephone number of the alarm user's premises or building to be served by the alarm;
 - (3) The name, address and telephone number of the person or persons in charge of the premises

or building served by the alarm;

- (4) The name, address and telephone number of the person or entity installing said alarm;
- (5) The name, address and telephone number of the person or entity monitoring said alarm;
- (6) The name, address and telephone number of the person or entity providing maintenance and repair service to said alarm.

An amended application shall be filed within ten (10) days after any change in the information provided in said application. Upon such amendment, a new alarm permit shall be issued without charge or fee.

- (c) *Term.* An alarm permit shall have a term of three (3) years from the date of issuance, said term to begin October first and end September thirtieth. Any alarm permit issued after October first will be valid for the following two (2) years through September thirtieth.
- (d) *Fee.* A ten dollar (\$10.00) fee shall be charged to the alarm user by the county for each permit issued, including successive renewal permits, to defray the cost of regulation.
- (e) *Nontransferable.* Any alarm permit issued pursuant to this article shall not be transferable or assignable and shall cover only one (1) building or premises.
- (f) *Issuance.* An alarm permit shall be mailed to the alarm user by the tax collector, at the address of the alarm user stated on the application, within ten (10) days after receipt of said completed application by the tax collector. An alarm permit shall be denied if:
 - (1) The requested information is not supplied on the application;
 - (2) Material information on the application is incorrect;
 - (3) Any person or entity listed on the application under subsection (b)(4) through (b)(6) of this section does not possess any required occupational or regulatory license to conduct the activities required by said subsections, unless the person or entity is the alarm user.

(Ord. No. I-245, Pt. A, 12-7-87)

Sec. 14-24. - Excessive false alarm signals.

No person shall allow, permit, cause or fail to prevent the emission, for any reason, by any alarm used by him or any alarm serving the premises or a building occupied and controlled by such person, of more than three (3) false alarms within any six (6) month period of time. The emission of more than three (3) false alarms within any six (6) month period of time is excessive and constitutes a serious public nuisance and is subject to service charges as set out in section 14-25.

(Ord. No. I-245, Pt. A, 12-7-87)

Sec. 14-25. - False alarm service charge; collection; disbursement; appeal; refusal to pay.

- (a) *Charges.* For response to excessive false alarms by the law enforcement agencies, the alarm user shall be charged a service fee by the city of fifty dollars (\$50.00) for the first alarm in excess of three (3) false alarms in any six (6) month period, seventy-five dollars (\$75.00) for the second false alarm in excess of three (3) in any six (6) month period, and one hundred dollars (\$100.00) for the third and each successive false alarm in excess of three (3) in any six (6) month period. For response to excessive false alarms by the fire department, the alarm user shall be charged a service fee by the city of one hundred twenty-five dollars (\$125.00) for the first alarm in excess of three (3) false alarms in any six (6) month period, one hundred fifty dollars (\$150.00) for the second false alarm in excess of three (3) false alarms in any six (6) month period and two hundred dollars (\$200.00) for the third and each successive false alarm in excess of three (3) in any six (6) month period. The law enforcement executive or fire marshal shall determine whether a false alarm has occurred and the frequency of such false alarms, and the tax collector shall notify alarm users of amounts owed to the city and shall

make demand therefor, pursuant to the provisions of this section.

- (b) *Appeal.* The decision of the law enforcement executive or fire marshal may be appealed to the code enforcement board by filing a written notice of appeal with the code enforcement board secretary within thirty (30) days from the date the law enforcement executive or fire marshal renders his decision.
- (c) *Collection.* Once notified by tax collector's office, the user will have thirty (30) days to pay any said service charges. All service charges collected shall only be used to offset the costs incurred in responding to false alarms.
- (d) *Refusal to pay.* The city may proceed by a suit in a court of competent jurisdiction to collect said charge after demand thereof has been made by the tax collector and the payment thereof refused by the alarm user.
- (e) *Disbursement.* Service charges will be disbursed to the fine and forfeiture accounts of each law enforcement agency and the general fund of the St. Lucie County/Fort Pierce fire district which responded to the false alarm or in a manner as agreed to by all affected agencies.

(Ord. No. I-245, Pt. A, 12-7-87)

Sec. 14-26. - Penalties.

Failure to comply with this article shall constitute a violation of the Code of the City of Fort Pierce and shall be enforced by the code enforcement board of the City of Fort Pierce by hearing and penalty, as generally provided by sections 2-240 through 2-260 of the Code of Ordinance of the City of Fort Pierce, Florida.

(Ord. No. I-245, Pt. A, 12-7-87)



Fort Pierce Police Department Crime Analysis Unit

5 Year Alarm Response Review

Prepared for Lt Chris Bender

The following is a review of alarm response calls for service for 2010 through June 30, 2015. The information provided was retrieved from two different CAD systems, therefore, the information is divided up into

During the review period there were a total of 11,543 law enforcement responses to alarm calls for service. The table indicates the frequency of alarm calls by year. Please note that the total for 2015 covers the January 1 through June 30.

A review of the alarm calls shows that our repeat calls are primarily to businesses and local schools. The following tables indicates the top ten repeat location by year.

FREQUENCY OF ALARM CALLS	
YEAR	FREQ
2010	2113
2011	2069
2012	2087
2013	2100
2014	2057
2015 (Jan - Jun)	1117
Total	11543

2010 Top Ten Addresses		
Location	Business Name	Frequency
4300 Okeechobee Rd	Charter Schools of Fort Pierce	24
2250 S Jenkins Rd	Samuel Gaines Academy K-8	24
1100 Delaware Ave	Fort Pierce Magnet School of the Arts	22
2539 S US Highway 1	Nova Cinemas	18
800 Virginia Ave	Business Plaza (Various Businesses)	16
4180 Okeechobee Rd	Oxford Collection Agency	15
921 Orange Ave	St Mark's Missionary Baptist Church	14
809 N 9th Street		14
2608 S US Highway 1		14
502 N 22nd St	Smitty's Garage	13

2011 Top Ten Addresses		
Location	Business Name	Frequency
1100 Delaware Ave	Fort Pierce Magnet School of the Arts	21
4888 Okeechobee Rd	Tractor Supply	20
2750 S US Highway 1	Sands of St Lucie	18
1505 Orange Ave	Council on Aging	17
501 Orange Ave	Wells Fargo	16
2111 S US Highway 1	Kmart	16
1201 Mississippi Ave	Dan McCarty Middle School	16
1601 S US Highway 1	Popeye's Chicken	14
2710 S US Highway 1	Nature's Way Exercise Club	13
1900 Nebraska Ave		13

2012 Top Ten Addresses		
Location	Business Name	Frequency
1600 S US Highway 1	TD Bank	24
2710 S US Highway 1	Nature's Way	15
406 S 33rd St	Children's Institute of Higher Learning	14
601 Virginia Ave	Chase Bank	14
4300 Okeechobee Rd	Charter School of Fort Pierce	14
5110 Okeechobee Rd	Murphy's Gas Station	13
4696 Okeechobee Rd	Hess Mart	13
2915 S US Highway 1	Avis	13
2421 S US Highway 1	Bank of America	13
1050 Virginia Av	Bank Atlantic/BB&T Bank	13

2013 Top Ten Addresses		
Location	Business Name	Frequency
5110 Okeechobee Rd	Murphy USA Gas	43
1110 N 32nd Street	Garden Terrace / ALPI Children & Family Service	31
3350 S US Highway 1	Bev Smith Toyota	27
603 N Indian River Drive	PNC Bank	24
4100 Selvitz Rd	Waste Pro	24
1108 N 22nd St		24
6900 Okeechobee Rd	Chevron/Citgo Gas Station	22
1150 Bell Ave	Bell Ave Warehouse	20
501 Orange Ave	Wells Fargo Bank	18
601 N 25th St	Three O's	16

2014 Top Ten Addresses		
Location	Business Name	Frequency
1110 N 32nd St	Garden Terrace / ALPI Children & Family Service	26
1201 Mississippi Ave	Dan McCarty Middle School	24
4100 Selvitz Rd	Waste Pro	19
1806 Avenue I	Lincoln Park Academy	18
2625 S US Highway 1	Golden Bear Pancake House	17
2810 S US Highway 1	Folkies Restaurant/TD Bank/Virginia College	17
2421 S US Highway 1	Bank of America	17
2111 S US Highway 1	Kmart	15
601 Avenue B	Fort Pierce High Rise	14
1700 S 23rd St	Lawnwood Hospital	13

2015 (Jan - Jun) Top Ten Addresses		
Location	Business Name	Frequency
2021 Avenue D	Plant a Seed Thrift Store	19
2024 S US Highway 1	Amvet	17
222 Orange Ave	Lorenzo's Pizza	14
1110 N 32nd St	Garden Terrace / ALPI Children & Family Service	12
1301 Orange Ave	Orange Corner	12
1200 Delaware Ave	Fort Pierce Magnet School of the Arts	10
4891 S US Highway 1	Burger King	8
705 S 23rd St		7
408 Brown Ct	Health Department	7
2750 S Kings Hwy	GCR Tires	7

The following table is a breakdown of alarms by alarm type for 2013 – 2015. Prior to the transition to OSSI CAD, both fire and residential premise alarms were coded as “alarm”.

Call Nature	2013	2014	2015	Total
Commercial Fire Alarm	17	28	12	57
Premise Alarm	2082	2026	1100	5208
Residential Fire Alarm	1	3	5	9
Total	2100	2057	1117	5274

The 80/20 rule states that 80% of the crimes (or alarms in this case) are committed by 20% of the population (addresses). The percentages will vary depending on the type of activity that is being represented. The 80/20 Analysis Chart below depicts the percentage of repeat locations versus the number of alarms.

In the 80/20 Analysis Chart for Alarms during the time period mention above (2010 – June 2015), the ten (10) addresses listed account for 5.4% of all alarm calls. These ten addresses on make up .41% of all addresses (2,454 address) officers have responded to for alarms during the specified time period. Please note, the addresses are only those that officers responded to for alarm calls and does not reflect the total number of addresses within the city. Likewise 9% of the alarm responses can be attributed to only 20 address or 081% of all addresses responded to for alarms.

**80/20 Analysis of Alarms Response Calls for Service:
January 1, 2010 - June 30, 2015**

ADDRESS	Business Name	Freq	Alarm %	Cum % of Alarms	Address % (N=2454)	Cum % of Addresses
1110 N 32ND ST	<i>Garden Terrace / ALPI Children & Family Service</i>	75	0.6%	0.6%	0.04%	0.04%
2421 S US HIGHWAY 1	<i>Bank of America</i>	67	0.6%	1.2%	0.04%	0.08%
1100 DELAWARE AV	<i>Fort Pierce Magnet School of the Arts</i>	66	0.6%	1.8%	0.04%	0.12%
5110 OKEECHOBEE RD	<i>Murphy's Gas Station</i>	65	0.6%	2.4%	0.04%	0.16%
501 ORANGE AV	<i>Wells Fargo Bank</i>	61	0.5%	2.9%	0.04%	0.20%
1201 MISSISSIPPI AV	<i>Dan McCarty Middle School</i>	59	0.5%	3.4%	0.04%	0.24%
1600 S US HIGHWAY 1	<i>TD Bank</i>	58	0.5%	3.9%	0.04%	0.29%
4300 OKEECHOBEE RD	<i>Charter School of Fort Pierce</i>	56	0.5%	4.4%	0.04%	0.33%
3350 S US HIGHWAY 1	<i>Bev Smith Toyota</i>	56	0.5%	4.9%	0.04%	0.37%
2111 S US HIGHWAY 1	<i>Kmart</i>	56	0.5%	5.4%	0.04%	0.41%
Addresses with 40 - 49 (10)		441	3.8%	9.2%	0.41%	0.81%
Addresses with 30 - 39 (19)		652	5.6%	14.8%	0.77%	1.59%
Addresses with 20 - 29 (61)		1461	12.7%	27.5%	2.49%	4.07%
Addresses with 10 - 19 (210)		2815	24.4%	51.9%	8.56%	12.63%
Addresses with 1 - 9 (2144)		5555	48.1%	100%	87.37%	100.00%
Total Alarms		11543	100%		100.00%	

If you have any questions, please do not hesitate to contact me at 772-467-6840 or alee@fppd.org.