



AGENDA REPORT
SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: April 3, 2012

Agenda Item 6N
Approvals: _____
City Manager _____
Dept. Head _____
Attorney _____
Finance _____

Department: City Manager
Prepared By: Joanne Baade, City Clerk *JB*

Subject: *APPOINTMENT OF CITY ATTORNEY AND ASSISTANT CITY ATTORNEY*

Summary: The City of San Clemente currently contracts with the law firm of Rutan & Tucker for legal services. The City's contract with Rutan & Tucker provides that the positions of City Attorney and Assistant City Attorney shall be determined by the City Council via adoption of a resolution. The contract goes on to state that Rutan & Tucker shall not replace the designated City Attorney or Assistant City Attorney without Council's prior approval.

The San Clemente City Council appointed Jeff Oderman, of Rutan & Tucker, to the position of Assistant City Attorney on November 25, 1980 and promoted him to the position of City Attorney on September 16, 1981. After 31 years of service with the City, Mr. Oderman has announced his intention to retire from his position as City Attorney. Mr. Oderman intends to remain with Rutan & Tucker, however, and has expressed willingness to continue to assist the City on any necessary matters, including the City's former redevelopment agency and its successor agency.

Mr. Oderman is recommending that the City Attorney position be filled by Jeff Goldfarb, of Rutan & Tucker, who has served as San Clemente's Assistant City Attorney for the past 25 years. During his tenure as Assistant City Attorney, Mr. Goldfarb served as the City's primary legal counsel to the Planning Commission and Planning Staff and also served as the City Attorney when Mr. Oderman was unavailable. A copy of Mr. Goldfarb's resume, which describes his educational background and professional experience, is attached as Exhibit A.

Mr. Oderman further recommends that Ajit Thind, who has been employed by Rutan & Tucker since 2009, be appointed to fill the Assistant City Attorney position if Council promotes Mr. Goldfarb to the City Attorney position. Mr. Thind has 2 years of experience in municipal law, having served as a Deputy City Attorney for the Cities of Laguna Beach and Irvine. A copy of Mr. Thind's resume, which describes his educational background and professional experience, is attached as Exhibit B.

No staffing change is proposed for the City's Deputy City Attorney position that is currently filled by Allison LeMoine-Bui.

In the event that Council determines to accept the staffing modifications, Staff recommends that Council do so by adopting the resolution that is attached as Exhibit C. The appointees would assume office immediately upon adoption of the resolution.

Recommended

Action:

1. Accept the resignation of Jeff Oderman from the position of City Attorney, with regret.
2. Adopt a Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPOINTING A CITY ATTORNEY AND ASSISTANT CITY ATTORNEY.

Fiscal Impact:

None

Attachments:

1. Resume of Jeff Goldfarb
2. Resume of Ajit Thind
3. Draft Resolution

Notification:

Jeff Oderman, Rutan & Tucker
Jeff Goldfarb, Rutan & Tucker
Ajit Thind, Rutan & Tucker

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RUTAN

RUTAN & TUCKER, LLP



Jeffrey A. Goldfarb
Partner

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Orange County

Mr. Goldfarb has been practicing law at the law firm of Rutan & Tucker, LLP since graduating *cum laude* from the University of California, Hastings College of the Law, in 1986. Jeff became a partner in the Government & Regulatory Law Section in 1994.

Mr. Goldfarb has served as the Assistant City Attorney for the City of San Clemente since 1987. He was the Assistant City Attorney for the City of Irvine from 1990-2004. In his capacity as the Assistant City Attorney for the City of San Clemente, Mr. Goldfarb is the assistant director of that City's legal department and advises the City on all issues of municipal law. Mr. Goldfarb also has primary responsibility for advising the City's Planning Commission and is an expert in the Federal Fair Housing Act, Fair Political Practices Act, the Brown Act, the California Environmental Quality Act, the Planning and Zoning Act, the Subdivision Map Act, and the regulation of both group homes and adult-oriented businesses. In addition to sitting as the legal advisor with San Clemente's Planning Commission, Mr. Goldfarb fills in for the City Attorney when he is unavailable.

COURSES TAUGHT

- ▶ Round Table Discussion - Land Use Entitlements: How to Pave the Way to Pave Your Property, The Global Retail Real Estate Convention (RECon), 2011
- ▶ Round Table Discussion - Application of Federal Fair Housing Act to Group Homes, Residential Recovery Facilities Conference, 2007
- ▶ Lecturer - So You Want Public Input? Improve the Hearing Process, League of California Cities, 2005
- ▶ Lecturer - What the Law Says About Closing Mobile Home Parks, MHET Trust Forum, 2004
- ▶ Lecturer - Current Issues in Land Valuation Seminar - Entitlements, Appraisal Institute Seminar, 2002
- ▶ Lecturer - RLUIPA (Religious Land Use and Institutionalized Persons Act) and the Fair Housing Act, Orange County Planning Directors Annual Meeting, 2001
- ▶ Lecturer - CEQA Issues: APA Orange County Seminar, 2000
- ▶ Lecturer - Keeper Findings, Nuts & Bolts Professional Development

RELATED SERVICES

**Affordable
Housing/Economic
Development**

**Government &
Regulatory Law**

**Land Use/Natural
Resources**

EDUCATION

University of California,
Hastings College of the
Law (J.D., 1986), *Cum
Laude*; Member Hastings
Law Journal, 1985; Note
Editor Hastings Law
Journal, 1986

University of California,
Berkeley (B.A., 1983),
Political Science; Phi
Beta Kappa; High Honors
in General Scholarship;
Author: "Rent Control in
Three Bay Area Cities;"
U.C. Berkeley Annual;
Undergraduate Political
Science Journal

BAR ADMISSIONS

California

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Series, American Planning Association, 1999

- ▶ Lecturer - Finders Keepers: How to Make Good Findings, California League of Cities Planners Institute, March 1997
- ▶ Lecturer - Everything a Planner Should Know About Sex (Housing, Developer Fees and CEQA, Too!), Cal Chapter American Planning Association Conference, 1996
- ▶ Lecturer - Regulating Sex-Oriented Businesses in Urban California, California Redevelopment Association, 1995
- ▶ Lecturer - Regulation of Adult Uses, Orange County City Attorneys Association, 1995
- ▶ Lecturer - Twilight Zoning: Recreation, Resort and Adult Entertainment, American Planning Association, 1994 Nuts and Bolts Conference
- ▶ Lecturer - Liability of Public Employees for Negligent Conduct Under State Law, California Building Officials Conference, November 1994
- ▶ Lecturer-Instructor, University of California Irvine extension course on Planning and Zoning Law

CASES SUCCESSFULLY LITIGATED (PARTIAL LIST)

- ▶ *Del Cerro Mobile Estates v. City of Placentia* (CEQA challenge to approval of multiple grade separations through Placentia and Anaheim)
- ▶ *Jauregui v. City of South Gate* (CEQA challenge to public works/private shopping center project)
- ▶ *Pleasant Hills Property v. Pleasant Hill Redevelopment Agency* (defense of CEQA challenge to shopping center approval)
- ▶ *City of Arcadia v. Taboo Gentleman's Club* (revocation of adult business regulatory permit)
- ▶ *Menifee Citizens for Smart Growth v. County of Riverside* (defense of EIR)
- ▶ *Boelts v. All Persons Interested* (validation action challenging amendment to Redevelopment Plan)
- ▶ *Tameny v. City of Costa Mesa* (defense of termination of recovery group home under FHAA)
- ▶ *Medieval Dinner & Tournament, Inc. v. City of Buena Park* (CEQA challenge)
- ▶ *Stevens v. City of Bakersfield* (writ of mandate/civil rights challenge)
- ▶ *Wilbur v. City of Costa Mesa* (Master Plan challenge)
- ▶ *Paff v. City of Costa Mesa* (CEQA challenge)
- ▶ *City of Costa Mesa v. Orange House* (Federal Fair Housing Act challenge to group home enforcement)
- ▶ *Lyburtus v. City of La Habra* (CEQA challenge)
- ▶ *Via Maria, Inc. v. City of Cypress* (First Amendment challenge to entertainment permit revocation)
- ▶ *City of Baldwin Park v. B&B Motel* (red light abatement action)

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- ▶ *City of Baldwin Park v. Lucky 7 Motel* (red light abatement action)
- ▶ *City of Newport Beach v. Tily B., Inc.* (adult oriented business litigation to obtain compliance of business with City's zoning and adult oriented business zoning ordinance)
- ▶ *Gammoh v. City of Anaheim* (same description as above)
- ▶ *People v. Johar* (criminal First Amendment/code enforcement action for City of Anaheim)
- ▶ *Mediavilla v. City of Lawndale* (challenge to City's adult oriented business ordinance)
- ▶ *People v. Williams* (code enforcement action terminating illegal residential use in commercial zone for City of San Clemente)
- ▶ *Serrano Irrigation District v. City of Orange* (challenge to adoption of specific plan)

PUBLICATIONS/SEMINARS

- ▶ *Avoiding the Five Deadly (Entitlement) Sins, Shopping Centers Today*, ICSC, May 2002
- ▶ Guest Speaker, Community Redevelopment Association, League of Cities City Attorney's Conference
- ▶ American Planning Association
- ▶ California City Clerk's Association
- ▶ Lecturer-Instructor, University of California Irvine extension course on Planning and Zoning Law
- ▶ *Oh What a Night – Night Sailing in a Santa Ana to and from Catalina Island*, *Seafaring Magazine*, November 2009

REFERENCES

- ▶ George Scarborough, City Manager, City of San Clemente 100 Avenida Presidio, San Clemente, CA 92672 | (949) 361-8321
- ▶ Michael W. Parness, City Manager, City of Napa 955 School Street, Napa, CA 94559 | (707) 257-9501
- ▶ Sheri Vander Dussen, Planning Director, City of Anaheim 200 S. Anaheim Blvd. | (714) 765-5139
- ▶ R. Scott Bell, President, ICI Development Co. 2222 E. 17th Street, Santa Ana, CA 92705 | (714) 541-1200
- ▶ Eric Nelson, Director of Entitlements, Red Mountain Retail Group, Inc. 1234 E. 17th Street, Santa Ana, CA 92701 | (714) 245-7405

MEMBERSHIPS & ASSOCIATIONS

- ▶ American Bar Association
- ▶ Orange County Bar Association
- ▶ Phi Beta Kappa National Honor Society
- ▶ League of California Cities Adult Oriented Business Task Force

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RUTAN

RUTAN & TUCKER, LLP

**Ajit Thind**
Associate

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Orange County

Mr. Thind is an Associate in the Firm's Government & Regulatory Law Section. His practice includes both litigation and transactional matters, on behalf of public agencies and private entities. Mr. Thind currently serves as the Deputy City Attorney for the City of San Clemente and the Deputy City Attorney for the City of Laguna Beach. He has advised a wide variety of public agency clients on issues relating to both federal and state laws concerning municipal government, land use, redevelopment, housing, water, environmental protection and labor/employment. His practice regularly involves advising clients on the Planning and Zoning Law, the California Environmental Quality Act, the Brown Act, the California Public Records Act, the Political Reform Act, California Community Redevelopment Law, and telecommunications laws.

Additionally, Ajit has represented city clients at city council meetings, planning commission meetings, and code enforcement proceedings. He has also assisted city clients by provided guidance concerning Civil Rights Laws and Constitutional matters. A sample of Ajit's recent work includes: successfully prosecuting a nuisance abatement action at an administrative hearing on behalf of a city client, successfully defended a local city in Section 1983 excessive force litigation, drafting a development agreement for a local public agency, assisting in the preparation of a housing element update for a city client, successfully defending a police department against a Pitchess motion, drafting a municipal ordinance related to mobile food vendors, and assisting in the settlement of complex telecommunications litigation against a city client.

Mr. Thind earned his Juris Doctor degree from the University of California, Los Angeles School of Law in 2009. While at UCLA School of Law, Mr. Thind was a member of the Journal of Environmental Law and Policy as well as the Public Interest Law Program Admissions Committee. He received his Bachelor of Arts in political science, with a minor in public policy, from the University of California, Berkeley in 2006. Mr. Thind is a member of the State Bar of California and the Federal District Court for the Central Court of California.

AREAS OF EXPERTISE

- ▶ Municipal and Government Agency Law
- ▶ Land Use and Development
- ▶ Civil Rights

RELATED SERVICES**Government &
Regulatory Law****EDUCATION**University of California
Los Angeles, School of
Law (J.D., 2009)University of California,
Berkeley (B.A., 2006)**BAR ADMISSIONS**

California

COURT ADMISSIONSU.S. District Court for the
Central District of
California

6/2/14

SEMINARS & COURSES

- ▶ A Decade of RLUIPA: What We've Learned About Religious Freedom and Land Use. Presented to Rutan & Tucker's Land Use and Natural Resources Practice Group, December 2011

COMMUNITY/AFFILIATIONS

- ▶ Member, Sikh Center of Orange County

MEMBERSHIPS & ASSOCIATIONS

- ▶ Orange County Bar Association
- ▶ State Bar of California
- ▶ North American South Asian Bar Association

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPOINTING A CITY ATTORNEY AND ASSISTANT CITY ATTORNEY.

WHEREAS, the City of San Clemente contracts with the law firm of Rutan & Tucker for legal services; and

WHEREAS, Jeff Oderman, of Rutan & Tucker, currently serves as the City Attorney of the City of San Clemente; and

WHEREAS, Mr. Oderman has determined to retire from his position as City Attorney and has recommended that Jeff Goldfarb, of Rutan & Tucker, who has served as San Clemente's Assistant City Attorney since 1987, be appointed to fill the City Attorney post; and

WHEREAS, Mr. Oderman further recommends that Ajit Thind, of Rutan & Tucker, be appointed to fill the Assistant City Attorney position in the event that Council chooses to promote Mr. Goldfarb to the City Attorney position; and

WHEREAS, no change is proposed for the City's Deputy City Attorney position that is currently filled by Allison LeMoine-Bui; and

WHEREAS, the City Council desires to accept the modifications to the City's legal counsel as recommended by Mr. Oderman.

NOW, THEREFORE, the City Council of the City of San Clemente does hereby resolve as follows:

Section 1. That Jeff Goldfarb is appointed to the position of City Attorney; Ajit Thind is appointed to the position of Assistant City Attorney; and Allison LeMoine-Bui's prior appointment to the position of Deputy City Attorney is reconfirmed.

Section 2. That the modifications to the City's legal counsel shall become effective immediately upon adoption of this resolution.

Section 3. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this _____ day of _____, _____.

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ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) §
CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. _____ was adopted at a regular meeting of the City Council of the City of San Clemente held on the ____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this ____ day of _____, _____.

CITY CLERK of the City of
San Clemente, California

Approved as to form:

City Attorney

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