



City Council Report

Date: April 20, 2015
To: City Council
Through: Christopher J. Brady, City Manager
From: Debbie Spinner, City Attorney
Subject: Amending Mesa City Code Section 1-19-2 and adding Section 1-19-3.
"Citywide" project

Strategic Initiatives



Purpose and Recommendation

The proposed amendments to Mesa City Code Section 1-19-2 and the addition of Section 1-19-3 authorize the City Attorney to file, pursue, and defend civil and criminal misdemeanor cases and appeals in any court or administrative tribunal. The amendments to this ordinance are being proposed based on a Memorandum Decision in an Arizona Court of Appeals Division 2 case *City of Tombstone v. Beatty's Guest Ranch and Orchard, LLC* (2013).

Background

In *City of Tombstone v. Beatty's Guest Ranch and Orchard, LLC* (2013) the Court of Appeals concluded that, without an express delegation of authority from the Council, the City Attorney may not have the authority to file an appeal without a public vote of the Council.

Discussion

Although this is only a Memorandum Decision, staff is recommending this ordinance change to avoid a potential legal challenge in the future. Time is critical in legal proceedings and it is in the best interest of the City that the City Attorney has the authority to file timely appeals. The City Attorney will continue to advise and consult with the Council regarding all cases that may affect or impact the City.

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Alternatives

Take no action, leaving ordinance as written, and not addressing the decision of the Court of Appeals case.

Fiscal Impact

There is no fiscal impact.

Coordinated With

The City Prosecutor's Office and the City Attorney's Office have reviewed these revisions amending Section 1-19-2 and adding Section 1-19-3 to the Mesa City Code.