

Mailed 9/28/05



State of California • The Resources Agency

Arnold Schwarzenegger, Governor

DEPARTMENT OF PARKS AND RECREATION • P.O. Box 942896 • Sacramento, CA 94296-0001

Ruth Coleman, Director

September 28, 2005

John Barisone, Esq.
City Attorney
City of Santa Cruz
333 Church Street
Santa Cruz, California 95060

Re: *Lighthouse Field Beach Rescue v. City of Santa Cruz* - Santa Cruz County
Superior Court Case No. CV 146505

Dear Mr. Barisone:

This correspondence follows up telephone conversations I had with Deputy City Attorney Jeff Barnes on September 26 and 27, 2005, regarding further action in the *Lighthouse Field* litigation. I understand you have also spoken with Supervising Deputy Attorney General John Davidson regarding the matter.

As Mr. Davison indicated, the Department of Parks and Recreation ("Department") will not seek review of the appellate decision by the California Supreme Court. The Department also declines to contribute financially, pursuant to the indemnification provision of the 1977 City/State Operating Agreement, to satisfy Ms. Brandt-Hawley's claim for attorneys' fees. We do not believe any action on the part of Department personnel so obligates us.

Nevertheless, we recognize the status quo satisfies no one. The City faces an exorbitant attorneys' fees claim and plaintiff gets only a peremptory writ of mandate requiring the City to set aside its adoption of the revised General Plan for Lighthouse Field State Beach. The status quo does not provide plaintiff with a policy of no dogs off-leash, and further litigation is likely against the City, the Department, or both.

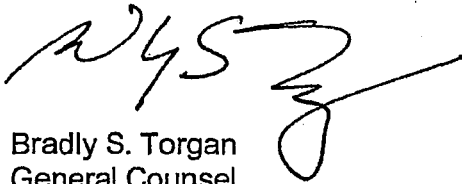
With that in mind, the Department would contribute toward a demand for attorneys' fees if a settlement is reached that includes an agreement to revert to the policy in the original 1984 General Plan restricting pets to leashes. The contribution would not be based on the indemnification provision of the Operating Agreement, but would instead be intended to provide some incentive to the City to take what we acknowledge will likely be a politically contentious action. We also believe Ms. Brandt-Hawley would be open to reducing her attorneys' fees demand as part of a settlement that includes reverting to the prior leash policy. The Department's contribution would be in the range of twenty to twenty-five percent, based on the ultimate amount of any fee award.

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Ms. Brandt-Hawley and I were on the faculty of a Continuing Legal Education program in Santa Monica two weeks ago. When she learned I was the Department's new General Counsel (my appointment began on September 1), she made a somewhat cryptic comment that a deal could be worked out. I mentioned this to Mr. Barnes when we spoke earlier this week and indicated I planned on calling her to find out what type of settlement she was contemplating. Mr. Barnes suggested I wait until you and I have a chance to speak and until you have had the chance to sound out the City Council on this issue. This, of course, I will do.

I look forward to speaking with you soon. My direct line is (916) 653-6884, but I will only be in the office next week on Monday, October 3 and Friday, October 7.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. S. Torgan', with a stylized flourish at the end.

Bradly S. Torgan
General Counsel

cc: John Davison, Supervising Deputy Attorney General, Department of Justice - Office
of the Attorney General
Tim La Franchi, Staff Counsel III, Legal Office
Dave Vincent, Superintendent, Santa Cruz District