

# County Counsel



## **BUDGET & FULL-TIME EQUIVALENTS SUMMARY & BUDGET PROGRAMS CHART**

Operating	\$ 7,438,480
Capital	\$ -
FTEs	38.5

Michael Ghizzoni  
County Counsel

Legal Services

# County Counsel

## Department

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### **MISSION STATEMENT**

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By statute, County Counsel is the legal adviser to the Board of Supervisors. Our attorneys and support staff advance and defend the County's civil policies and actions by: looking ahead, advising and litigating. We work closely with the Board of Supervisors and other County Officers to maintain the civil legal integrity of the County of Santa Barbara.

### **DEPARTMENT DESCRIPTION**

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We defend or prosecute all civil litigation in which the County, or its officers or employees in their official capacities, are parties. This regularly includes: federal civil rights and state tort cases; "dependency" actions to protect minor children; property tax assessment appeals; land use actions; statutory financial cases, by or against the Auditor-Controller or Treasurer; defense against State audits of ADMHS Medi-Cal programs; mental health commitments and conservatorships; and employment cases.

We provide civil legal advice and services to: the Board of Supervisors, other County Officers, Departments, Boards, Commissions, Committees, and Special Districts. This legal advice involves many subjects, including: land use, public works, real property, contracts, public safety, regulatory, financial, elections, social services, housing, healthcare and personnel. All of this advances the County's public service objectives, while helping to protect the County from loss and risk.

### **HIGHLIGHTS OF 2015-17 OBJECTIVES**

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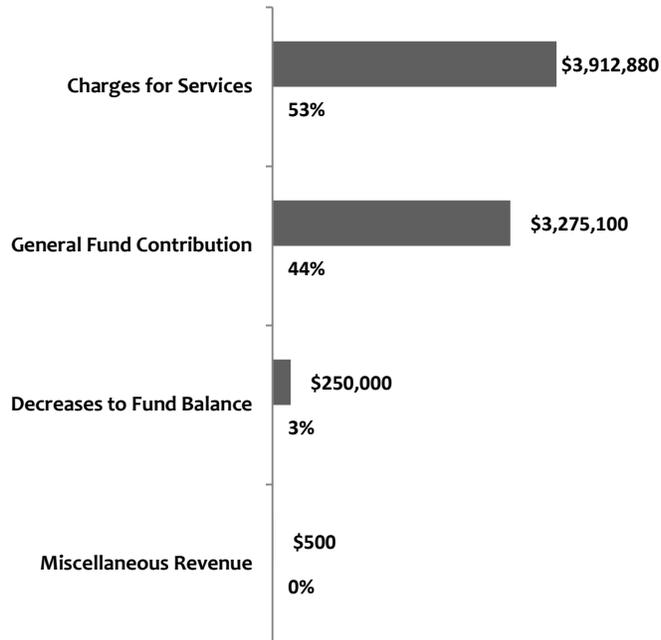
- Northern Branch Jail: Provide legal support to move forward: \$96.1 million AB900 phase, to potential award of construction contracts; and \$43.5 million SB1022 phase, to schematic design and design development.
- Litigate against: 1) United Launch Alliance's property tax appeals, where potential impact to County General Fund is about \$6.5 million; 2) civil rights and tort damages cases, including six already set for trial before March 2016; 3) State's FY 06/07, 07/08 and 08/09 audits of ADMHS Medi-Cal programs, which claim about \$8.2 million of disallowed costs; and, 4) Fee-To-Trust decisions by Bureau of Indian Affairs for the "Camp 4" property.
- Psychiatric Health Facility ("PHF"): With misdemeanor defendants mentally incompetent to stand trial ("IST"), advise and litigate to stop their placement at PHF sooner, when no longer compelled or authorized by law.
- Water: Provide legal support about: potential extension of 1963 Water Supply Agreement; proposed Bay Delta Conservation Plan; and planning under the 2014 "Sustainable Groundwater Management Act."
- Legal support for "land use" projects, including: Goleta Valley Community Plan; Isla Vista Master Plan; Gaviota Coast Plan; Montecito Design Guidelines; Winery Ordinance Update; GPS Ventucopa Rock Plant; Resource Recovery Project at Tajiguas Landfill; and Pacific Coast Energy's Oil Drilling and Production Plan.

# County Counsel

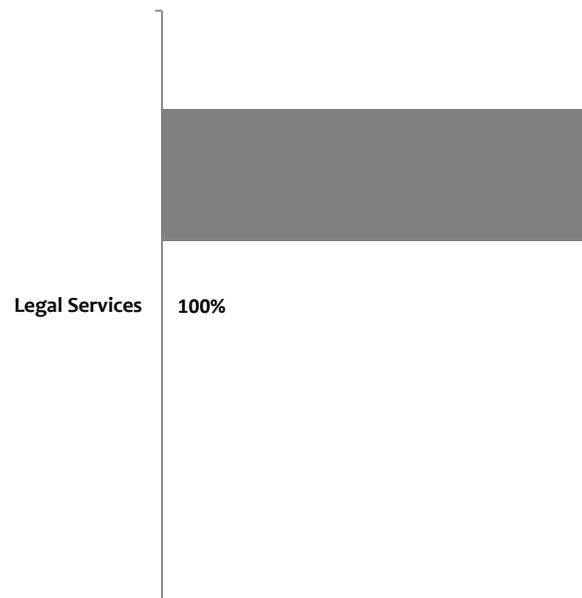
## Department

### RECOMMENDED SOURCES & USES OF FUNDS

#### Source of Funds - \$7,438,480

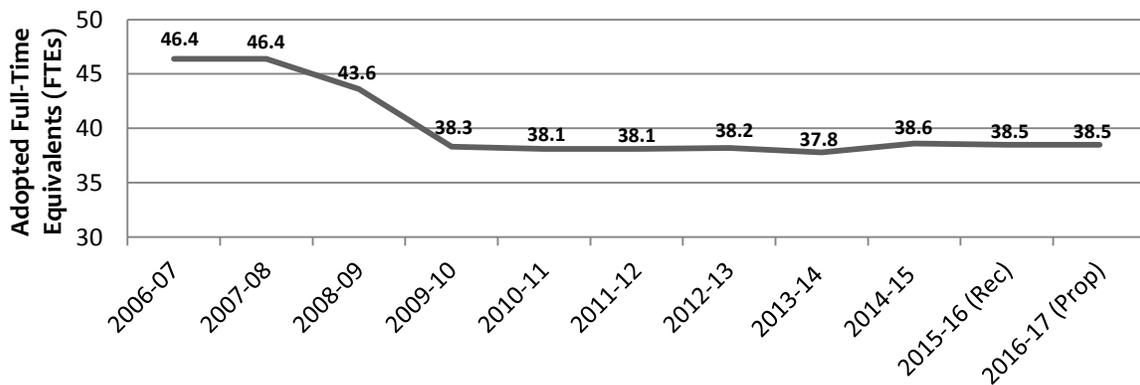


#### Use of Funds - \$7,438,480



### STAFFING TREND

The staffing trend values will differ from prior year budget books in order to show amounts without the impact of any vacancy factors.



# County Counsel

## Department

### **BUDGET OVERVIEW**

Staffing Detail By Budget Program	2013-14 Actual	2014-15 Adopted	Change from FY14-15 Ado to FY15-16 Rec	2015-16 Recommended	2016-17 Proposed
Legal Services	36.37	38.60	(0.10)	38.50	38.50
Total	36.37	38.60	(0.10)	38.50	38.50
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<b>Budget By Budget Program</b>					
Legal Services	\$ 6,817,297	\$ 7,325,749	\$ 112,731	\$ 7,438,480	\$ 7,692,015
Total	\$ 6,817,297	\$ 7,325,749	\$ 112,731	\$ 7,438,480	\$ 7,692,015
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<b>Budget By Categories of Expenditures</b>					
Salaries and Employee Benefits	\$ 5,995,360	\$ 6,399,329	\$ 368,261	\$ 6,767,590	\$ 7,004,599
Services and Supplies	669,044	756,600	(261,630)	494,970	498,970
Other Charges	152,893	169,820	6,100	175,920	188,446
Total Operating Expenditures	6,817,297	7,325,749	112,731	7,438,480	7,692,015
Increases to Fund Balances	30,000	-	-	-	-
Total	\$ 6,847,297	\$ 7,325,749	\$ 112,731	\$ 7,438,480	\$ 7,692,015
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<b>Budget By Categories of Revenues</b>					
Charges for Services	\$ 3,348,435	\$ 3,703,940	\$ 208,940	\$ 3,912,880	\$ 3,604,770
Miscellaneous Revenue	(276)	13,309	(12,809)	500	500
Total Operating Revenues	3,348,159	3,717,249	196,131	3,913,380	3,605,270
Decreases to Fund Balances	972,469	790,000	(540,000)	250,000	250,000
General Fund Contribution	2,437,900	2,818,500	456,600	3,275,100	3,354,000
Fund Balance Impact (-)	88,769	-	-	-	482,745
Total	\$ 6,847,297	\$ 7,325,749	\$ 112,731	\$ 7,438,480	\$ 7,692,015

# County Counsel

## Department

### ***CHANGES & OPERATIONAL IMPACT: 2014-15 ADOPTED TO 2015-16 RECOMMENDED***

#### Staffing

- -0.1 FTE decrease in extra-help.

#### Expenditures

- Net operating expenditure increase of \$112,731 due to:
  - +368,300 increase in Salaries and Employee Benefits due to increases in retirement costs, health insurance costs, workers compensation premiums, and employee salaries.
  - -261,600 decrease in Services and Supplies due to a decrease in outside counsel legal expense costs.

These changes result in recommended operating expenditures of \$7,438,480, non-operating expenditures of \$0 and total expenditures of \$8,636,700. Non-operating expenditures are for capital assets.

#### Revenues

- Net operating revenue increase of \$196,100. All County Counsel billing was impacted by an 8.6% increase in the overhead rate for Fiscal Year 2015-16. The following Charges for Services accounts were affected;
  - -\$43,300 decrease in Legal Services to Other Funds due to reduced billings to Risk Management
  - +\$265,740 increase in Legal Services
  - +\$14,500 in Other Services
  - -\$28,000 decrease in Property Tax Admin-SB 2557
  - -\$12,809 decrease in Miscellaneous Revenue
- Net non-operating revenue increase of \$83,400 due to:
  - -\$540,000 decrease to Committed Fund Balance due to a decrease of \$260,000 in the use of one-time funding from the Program Restoration Fund Balance account, needed to balance the budget for FY 14/15 and a decrease of \$250,000 in the Litigation Fund for the use of outside counsel.
  - +\$456,600 increase in General Fund Contribution which reflects the recommended increase to the GFC target.

These changes result in recommended operating revenues for FY2015-16 of \$3,913,380 non-operating revenues of \$3,525,100, resulting in total revenues of \$7,438,480. Non-operating revenues primarily include General Fund Contribution, transfers, and Decreases to Committed.

### ***CHANGES & OPERATIONAL IMPACT: 2015-16 RECOMMENDED TO 2016-17 PROPOSED***

The FY 2015-16 Recommended to 2016-17 Proposed shows: an increase of about \$253,500 in operating expenditures, primarily due to expected increases in Salaries and Benefits; and a \$308,110 decrease in operating revenues primarily from expected closeout of self-insured workers' compensation "tail claims" litigation. (Effective 7/1/2010, the County

# County Counsel

## Department

### **CHANGES & OPERATIONAL IMPACT: 2015-16 RECOMMENDED TO 2016-17 PROPOSED (CONT'D)**

replaced its self-insured workers' compensation approach with insurance through CSAC-EIA's Primary Workers' Compensation Program).

The FY 2015-16 Recommended to 2016-17 Proposed General Fund Contribution shows an increase of \$78,900 leaving a negative fund balance impact of \$482,700.

We will closely manage the \$308,100 decrease in revenues, expected after June 2016, from closeout of "tail claims." This may be offset by savings in Salaries and Benefits through expected retirements.

### **RELATED LINKS**

For more information on the County Counsel's Office, refer to the Web site at <http://countyofsb.org/counsel/>

### **PERFORMANCE MEASURES**

Description	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Estimated Actual	FY 2015-16 Recommend	FY 2016-17 Proposed
A target of 90% or greater for the percentage of litigated cases which resolve at 85% or less than the amount reserved by Risk	95% 18/19	86% 6/7	94% 15/16	94% 15/16	92% 12/13
A target of 60% or greater for the percentage of litigated cases resolved without payment to plaintiff	70% 14/20	68% 13/19	65% 11/17	65% 11/17	71% 10/14
Percent of departmental Employee Performance Reviews (EPRs) completed by the due date	Not used in prior years	Not used in prior years	75% 27/36	100% 37/37	100% 37/37

# County Counsel



# County Counsel

## Program

### LEGAL SERVICES

Through this single Budget Program, the Office of County Counsel: 1) provides civil law legal advice to statutory clients, including the Board of Supervisors; and 2) defends or prosecutes all civil litigation in which the County, or its officers or employees in their official capacities, are parties.

#### Staffing

Staffing Detail By Budget Program	2013-14 Actual	2014-15 Adopted	Change from FY14-15 Ado to FY15-16 Rec	2015-16 Recommended	2016-17 Proposed
COUNTY COUNSEL	1.00	1.00	-	1.00	1.00
CHIEF ASST COUNTY COUNSEL	0.81	1.00	-	1.00	1.00
CHIEF DEPUTY	1.00	1.00	-	1.00	1.00
DEPUTY COUNTY COUNSEL SR	10.85	11.00	-	11.00	11.00
CHIEF DEPUTY COUNTY COUNSEL	0.69	1.00	(1.00)	-	-
DEPUTY COUNTY COUNSEL SR-RES	0.65	1.00	-	1.00	1.00
DEPUTY COUNTY COUNSEL	8.95	10.00	1.00	11.00	11.00
DEPUTY COUNTY COUNSEL IV-RES	0.19	-	-	-	-
BUSINESS MANAGER	1.00	1.00	-	1.00	1.00
LEGAL OFFICE PRO	4.00	4.00	(4.00)	-	-
COMPUTER SYSTEMS SPEC	1.00	1.00	-	1.00	1.00
LEGAL OFFICE PRO SR-RES	-	-	4.00	4.00	4.00
PARALEGAL-RES	5.60	6.00	-	6.00	6.00
EXTRA HELP	0.64	0.60	(0.10)	0.50	0.50
Total	36.37	38.60	(0.10)	38.50	38.50

#### Revenue & Expenditures

Budget By Categories of Expenditures	2013-14 Actual	2014-15 Adopted	Change from FY14-15 Ado to FY15-16 Rec	2015-16 Recommended	2016-17 Proposed
Salaries and Employee Benefits	\$ 5,995,360	\$ 6,399,329	\$ 368,261	\$ 6,767,590	\$ 7,004,599
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Increases to Fund Balances	30,000	-	-	-	-
Total Expenditures	\$ 6,847,297	\$ 7,325,749	\$ 112,731	\$ 7,438,480	\$ 7,692,015
<b>Budget By Categories of Revenues</b>					
Charges for Services	3,348,435	3,703,940	208,940	3,912,880	3,604,770
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General Fund Contribution	2,437,900	2,818,500	456,600	3,275,100	3,354,000
Total Revenues	\$ 6,758,528	\$ 7,325,749	\$ 112,731	\$ 7,438,480	\$ 7,209,270

\* Please note that departments are not required to balance their budget at the program level.

# County Counsel

## Program

### **LEGAL SERVICES (CONT'D)**

#### **2014-15 Anticipated Accomplishments**

United Launch Alliance property tax assessment appeals: For the disputed years 2007-2014, the difference between the Assessor's Roll Value and ULA's Opinion Value for ULA's taxable property at Vandenberg Air Force Base is about \$3.27 billion. The County General Fund's share of the total disputed tax dollars would be about \$6.5 million. In 2014 we obtained a court order that required ULA to identify and produce documents related to the valuation of their taxable property. Beginning in October 2014 and continuing since then, we shifted about 1.5 Senior Deputy FTE from "charge for services" work to this "General Fund" work. Ongoing.

Northern Branch Jail Project: Continued to provide intensive legal support to this complex project: to move the \$96.1 million AB900 phase forward to bidding; and to move the \$43.5 million SB1022 phase forward to schematic design. We identified the County's ability to save about \$ 786,000 of Project costs by amending the 1% for arts requirement in County Code Chapter 7A and the Board directed that savings. Ongoing.

Fee-To-Trust Application for "Camp 4" property: Prepared well ahead to protect the County's land use, regulatory, environmental and property tax interests. Received Board direction and filed comprehensive appeals against Bureau of Indian Affairs': December 24, 2014 Notice of Decision; and October 17, 2014 "Finding of No Significant Impact." Ongoing.

Treasurer-Tax Collector: Provided legal support to Treasurer's proposal for refunding County's 2005 Certificates of Participation, through a financing at lower interest rates, which is expected to yield the County a net present value savings of about \$1.1 million. Provided legal support for several tax collection matters, including a bankruptcy matter in which the County collected approximately \$1.7 million in defaulted property taxes and delinquent penalties.

"Santa Barbara foreclosure cases" litigation: Prevailed at the Superior Court against all thirteen "taxpayer suits" that involved what the Court of Appeal later called "misguided" collateral attacks against County officers and employees, after foreclosure sales and unlawful detainer ("eviction") actions by lenders and new owners. Prevailed at the California Court of Appeal which upheld dismissal in all six of these cases that plaintiffs appealed.

Child Welfare Services litigation: Prevailed at the California Court of Appeal, which upheld terminations of parental rights and/or denial of reunification services in all seven appellate reviews of cases that challenged County actions to protect minor children.

Federal civil rights and state tort litigation:

- Successfully resolved thirteen cases for approximately \$375,000 less than Risk Management's reserves. Six of those cases were resolved with no County payouts, including through summary judgment or motion to dismiss.
- TTT Winery: Protected the Board's discretion by prevailing against applicant's writ petition and complaint for damages, which challenged the denial of a Tier III Winery Development Plan in Santa Ynez and sought "takings" damages.

# County Counsel

## Program

### **LEGAL SERVICES (CONT'D)**

Other ongoing “land use” litigation:

- Mesa Verde Project: Brought litigation and achieved bond company’s payment of \$335,000 for developer’s landscaping and grading bonds totaling \$339,423; and
- Defend County’s hearing of Rose Petition for Termination of a Nonconforming Use (trial expected Spring-Summer 2015).

Self-insured workers’ compensation “tail claims” litigation: Economically resolved 18 litigated cases under the County’s former self-insured workers’ compensation program -- for injuries occurring before June 2010 -- which freed up about \$2.7 million of Risk Management’s reserves. (Effective 7/1/2010, the County replaced this self-insurance program with insurance through CSAC-EIA’s Primary Workers’ Compensation Program.)

Psychiatric Health Facility (“PHF”): With misdemeanor defendants found mentally incompetent to stand trial (“IST”), began advising and litigating to stop their placement at PHF when no longer compelled or authorized by law. IST stays beyond acute medical need block emergency “5150” evaluation and treatment for others and cost the County \$49,650/month/bed.

Legal support for the County’s consideration of significant land use projects, including:

- Cuyama Solar Project: Completed legal support of this complex project in which the Board of Supervisors amended the Comprehensive Plan Land Use Element and Land Use Development Code to allow discretionary utility-scale solar photovoltaic facilities, up to 600 acres, in the Cuyama Valley; and approved the 40 megawatt Cuyama Solar Facility, which is estimated to support 15,600 average homes and reduce carbon dioxide emissions by 30,000 metric tons per year;
- Crown Castle Distributed Antenna System Project: Throughout multiple hearings, helped achieve the goals of the Montecito Planning Commission and Board of Supervisors, by shaping local options within the Federal Telecommunications Act that allowed the Montecito Planning Commission to provide further comments about the project’s aesthetics and which ultimately yielded a revised project with improved aesthetics;
- Updates to Housing Element, Land Use Element, and Safety Element; and
- Expected: Miramar Beach Resort Proposed Revised Development Plan; Montecito YMCA Proposed Master Plan Update; Las Varas Project; Rice Ranch Proposed Recorded Map Modification and Specific Plan Amendments; ERG Development Plan (pipeline); and Proposed Revised Thresholds for Air Quality and Greenhouse Gases.

Received the final payments from Greka Oil & Gas that were required by the 2011 Settlement Agreement and Release between Greka and the County, through which Greka paid the County a total of \$2.0 million to resolve litigation of seven administrative fine appeals.

“Laura’s Law:” During the Board’s consideration of implementing a County program for court-ordered outpatient treatment services, provided clear and comprehensive legal support, including about: criteria, processes, required services, and funding.

# County Counsel

## Program

### **LEGAL SERVICES (CONT'D)**

#### **2015-17 Objectives**

Northern Branch Jail Project: Continue intensive legal support: to move the \$96.1 million AB900 phase forward to the potential award of construction contracts; and to move the \$43.5 million SB1022 phase forward to schematic design and design development

United Launch Alliance property tax assessment appeals: Continue to defend against a multi-year series of property tax assessment appeals, where the County General Fund's share of the total disputed tax dollars would be about \$6.5 million.

Federal civil rights and state tort litigation: Defend civil actions for damages against the County and its employees, including six cases that already are set for trial between now and March 2016.

State audit of ADMHS Medi-Cal programs: Continue litigation of State's SFY 06/07 and 07/08 audits, which involve about \$5.2 million of disallowed costs. Begin preparation for formal hearing on appeals and expected litigation of State's SFY 08/09 audit, in which State's audit claims about \$3 million due from the County.

Fee-To-Trust appeal for the about 1,428-acre "Camp 4" property: Pursuant to Board direction, protect the County's land use, regulatory, environmental and property tax interests by continuing appropriate administrative appeal and litigation to challenge both the "Finding of No Significant Impact" and the Notice of Decision of intent to accept this property into trust.

Resource Recovery Project: With this \$60 million project's proposed use of conversion technology to extend the life of the Tajiguas Landfill by 20 years, continue significant legal support for: compliance with the California Environmental Quality Act; proposed Joint Powers Agreement; and potential vendor's contract.

Self-insured workers' compensation "tail claims" litigation: Continue to reduce the County's self-insured liability for workers' compensation injuries occurring before July 2010, by economically resolving the 24 remaining litigated cases, which include some of the most costly and difficult to resolve.

Psychiatric Health Facility ("PHF"): With misdemeanor defendants found incompetent to stand trial ("IST"), within existing resources increase support to ADMHS to end PHF placements sooner, when PHF confinement no longer warranted.

"Laura's Law:" If the Board chooses to implement "Assisted Outpatient Treatment Services," provide legal support to ADMHS for: their development of procedures; any necessary training; petition filing; and in-court advocacy for orders authorizing and continuing assisted outpatient treatment.

# County Counsel

## Program

### **LEGAL SERVICES (CONT'D)**

Water: Provide timely legal support to the Board of Supervisors and County Water Agency staff about:

- Potential extension of the 1963 Water Supply Agreement between the State and the Santa Barbara County Flood Control and Water Conservation District. This would be complicated by 19 Water Supply Retention Agreements executed between 1983-1988, involving the Flood Control and Water Conservation District; and a Transfer of Financial Responsibility Agreement in 1991, between the Flood Control and Water Conservation District, and the Central Coast Water Authority;
- Proposed Bay Delta Conservation Plan; and
- Preparation of required planning and actions under the 2014 “Sustainable Groundwater Management Act,” which incorporates AB 1739 (Dickinson), SB 1168 (Pavley), and SB 1319 (Pavley).

Provide advisory legal support for other significant “land use” projects, including: Goleta Valley Community Plan; Isla Vista Master Plan; Gaviota Coast Plan; Montecito Design Guidelines; Winery Ordinance Update; GPS Ventucopa Rock Plant; and Pacific Coast Energy Company’s request for an Oil Drilling and Production Plan (ODPP).

Contract Improvement Workgroup: Provide legal support to this group’s work to: identify and implement contract process improvements, propose policies, assist departments in monitoring contracts, and provide training.

Cuyama Pool and Aquatics Complex: Continue to support County’s efforts to recover from its property insurance carrier the about \$2 million cost of redesigning and rebuilding the complex after portions of it collapsed.