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**Wilhite delivers
his city bill
to the LDR**
**Statement totals \$985 for
Waggoner censure**

By Katie Hilton
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City Counselor David Wilhite has delivered to The Daily Record a copy of his February bill to the city.

Wilhite brought the bill Tuesday afternoon after publication of a story noting that the Missouri Court of Appeals ruled 20 years ago that a lawyer's billing statement is not exempt from disclosure under the Missouri Sunshine Law.

Wilhite's bill, which covers work performed Feb. 11-Feb. 27, 2009, totals \$985.85. All of the work listed on the statement was associated with the controversial censure resolution of Councilman Chase Waggoner.

City Clerk Laina Starnes on March 5 refused to provide the billing statement, which had been requested by The Daily

Record under the Missouri Sunshine Law, on the grounds that it "is considered legal work product and the record is considered closed pursuant to RSMo 610.021 (1)."

The Daily Record sent a copy of a Missouri Court of Appeals case from 1988, entitled *Tipton v. Barton*, to Starnes on Tuesday morning, informing her that the appellate judges ruled that "itemized billing statements were not privileged communications within attorney-client or work product privilege."

In that letter, The Daily Record repeated its request that Wilhite's billing statement be released.

Wilhite's bill shows that then-City Administrator Joe Knapp called Wilhite on Feb. 11 to talk about "councilman censure." By then, The Daily

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Billing

Record had reported that Waggoner told the newspaper he made a formal objection during City Council's Feb. 9 closed session because the Council and Knapp were discussing budget matters, including possible layoffs, in general discussion, although the meeting had been closed under a Sunshine Law exemption for "hiring, firing, disciplining or promoting" of particular employees.

Wilhite's bill shows he performed legal research, including a call to Richard Sheets at the Missouri Municipal League, and research on the Missouri Sunshine Law before e-mailing a censure resolution to Mayor C.P. Craig's administrative assistant Betty Sheets on Feb. 18. He also conferred with Craig and Mayor Pro Tem Jim Davis on that date and prepared a "legal brief" concerning Section 610.021 of the Sunshine Law.

Wilhite's opinion about the personnel aspects of the closed session and the censure resolution were delivered by letter dated Feb. 18 to Craig. The resolution, already signed by Craig and seven Council members, one of whom was in Florida, was rati-

fied by six Council members voting in open session on Feb. 23.

Wilhite's bill also lists conferences with Craig and with Katie Hilton on Feb. 26. The newspaper called Wilhite Feb. 25, asking whether, in his research, he had considered the "whistleblower" section of the Sunshine Law (RSMo 610.028 (3)) that protects city officers from being disciplined if they report a violation of the law, such as Waggoner said he was doing after the Feb. 9 closed session. At that time, Wilhite said he was familiar with that section of the statute but did not research it when doing the censure work for City Council. He stopped by The Daily Record the following afternoon to clarify which section the paper cited and to discuss the censure.

His bill lists 1.20 hours of legal research on the whistleblower section on Feb. 27.

The Daily Record has referred various Sunshine Law issues arising from the Feb. 9 closed meeting and the subsequent censure of Waggoner to the Missouri attorney general's office for review. No opinions have been relayed by that office.



City reveals ⁸⁰⁰ insurer's name

Officials continue to be mum on claim

By Ken York
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Lebanon released more information about the city's insurer against litigation expenses Wednesday, but the city still won't comment on the claim it has filed to cover the cost of a pair of lawsuits that have cost at least \$600,000 so far.

Legal costs were cited late last year to justify an increase in water rates for the city's utility customers. City Council approved the rate hike last month.

The city's insurance carrier is Savers Property and Casualty Insurance Co., which has had the city's policy for the last 15 years, according to City Clerk Laina Starnes.

Savers covers the city for general liability, law enforcement liability, public officials errors and omissions, employment practices liability, property, equipment, automobile liability and physical damage as well as an umbrella policy, Starnes wrote in an e-mail.

Other questions that were posed by The Daily Record more than a month ago remain unanswered.

"Some of the questions relate to the litigation and others are not information that is available to the city," Starnes wrote.

Other information sought by The Daily Record Feb. 11 included specific information about the claim, whether it has been paid, past claims against the policy, and why a rate hike was needed if the legal costs that allegedly depleted the water reserve fund are covered by insurance.

Former City Administrator Joe Knapp testified in a deposition Feb. 5 that the claim for legal expenses has been filed with the insurance company, but he said he couldn't remember the dollar amount of the claim.

Knapp was deposed in his official capacity for a federal lawsuit that was filed by Public Water Supply District No. 3 in October 2007. The suit alleges that Lebanon has been annexing PWS District No. 3 territory for decades in violation of federal and state laws that protect rural water districts. Recently, all the district's federal claims were dismissed, but the alleged state law violations have yet to be decided.

The district sued the city again a year ago in state court, claiming the city violated the Sunshine Law by not providing information about utility customers that the district had requested under the Sunshine Law during the discovery

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Insurance)

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phase of the federal lawsuit.

The city has since provided the information, but that suit is still pending.

The federal lawsuit is scheduled to go to trial in June.

The sparring entities have

met to discuss settlements several times since December and reported progress after each meeting. Each side has admitted that the suit may drag on for years.

County: Laclede

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**Making
a stand**

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From City Council minutes disclosed 18 days after a secret vote, Lebanon learned that Civic Center hours are being cut, and its pool will be closed for the summer. Council voted behind closed doors Feb. 9.

Patrons of the Civic Center aren't happy. Those who use the center on weekday mornings are out of luck, starting tomorrow. Several folks vented at the Park Board meeting Thursday night after Mayor C.P. Craig had the floor for 90 minutes.

Mayor Craig blames low sales tax revenue for cuts at the Civic Center, although the building has posted operations red ink for years. The mayor continues to complain about repeal of fees, which were forgiven for five years by City Council to entice voters to renew the half-cent capital improvement tax in February 2006. Voters were told the fees would be replaced with income from the tax. Last year,



KATIE HILTON

a new mayor and council dumped the Cowan Center segment of capital improvements, including the fee replacement money.

Craig wants the Park Board to ask Council to reinstate the fees,

which is a cheap and transparent play for political cover for Council. The Park Board has NO power to set, repeal or restore fees.

The board, so far, has stood fast because several members advocated the tax passage and stood on Council's promise.

Council made the no-fee promise in the first place. Council can take it back, if they dare. It's that simple. They shouldn't demand "cover" from the Park Board.

A hearty thanks to the Curry family and Central Bank for their generous donation of 1.5 acres of real estate that will be the site of R-3 School District's new Central Office.

A leaky roof and mold in the old administration building at 321 S. Jefferson prompted officials to move to leased space on East Route 66 at a monthly rent of \$2,300. The Jefferson property was appraised at \$645,000 in 2005, according to a district release. It's for sale. When it sells, the district hopes to have enough cash to build a new structure on the donated land. Building trades students will be part of the construction crew, keeping labor costs low.

If everything works out, that's one building that won't have to be packaged in a future bond issue, which lightens the load for district taxpayers.

So again I say, "Thanks very much, Central Bank!"

More pieces of the puzzle surrounding the censure of Councilman Chase Waggoner are coming to light.

When The Daily Record asked for the city counselor's billing statement, City Clerk Laina Starnes said no, calling the document "legal work product," which would allow it to be a closed record.

The newspaper sent Starnes a 20-year-old appellate court case in which the judges ruled that a lawyer's billing statement can't be closed. There already was Lebanon precedent on billing statements, anyway. Last year, Starnes released a lawyer's billing statement after our Sunshine Law request during the ugly attempt by Council to get Waggoner, who was seeking re-election, in trouble with the law.

After our story Tuesday, David Wilhite delivered a copy of his bill. The city will pay \$986 for his February work researching, delivering an opinion and crafting the censure resolution.

We'll ask for his March bill, too. It appears he had just started

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Hilton

researching the “whistleblower” protection afforded by the Sunshine Law (RSMo 610.028 (3)) on Feb. 27 when his monthly billing cycle ended, long after the ink on the censure had dried. We don’t know yet if he’s delivered an opinion about whistleblowing

or not. We hope the Missouri attorney general will respond to various referrals we’ve made regarding the Feb. 9 closed session and its aftermath. Stay tuned.

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