

CITY OF MADISON, WISCONSIN

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**REPORT OF THE CITY ATTORNEY**

AUTHOR: Michael P. May

DATED: April 6, 2010

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TO THE MAYOR AND COMMON COUNCIL:

RE: Landfill Settlement with Compass Insurance Company

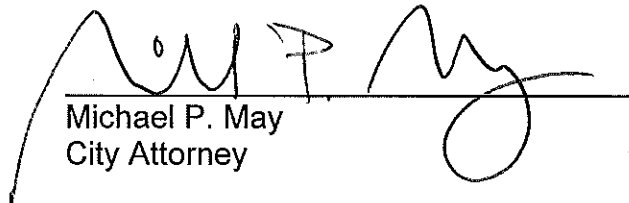
The proposed settlement with Compass Insurance Company is recommended for approval by the City Attorney, City Comptroller, and City Engineer. If this settlement is approved, the City will have recovered over \$5 million to offset costs of landfill remediation.

The body of the resolution makes a brief reference to the tangled legal environment in which these claims arose. These are all older insurance policies. Newer policies all have a specific exclusion for these types of claims. There were myriad issues the City would have faced had the cases been litigated, any of which might have reduced or eliminated the ability of the City to recover any amounts. In addition, I believe that litigation would have taken years and consumed a substantial amount of resources of City staff.

I would like to commend Attorney Ron Ragatz and the DeWitt, Ross and Stevens firm for their excellent legal work on this matter. Ron agreed to a unique arrangement whereby the City paid him on an hourly basis up to the time the matter would be put into suit. We did this because we believed there was a significant possibility that the insurance companies would rather settle than engage in litigation. If the matter had been a traditional contingent fee arrangement, the fees for the services provided by Attorney Ragatz would have exceeded \$1.6 million, as opposed to the final fee of less than \$100,000. Had the matters gone into litigation and the City would have paid a contingent fee, the recovery would have to be much more than the current settlements in order to put the City in the same position.

The knowledge and experience that Attorney Ragatz brought to the case was invaluable to the City. His presence also provided a significant threat that the City would engage in litigation, such that the insurance companies agreed to reasonable settlements.

Respectfully submitted,



Michael P. May  
City Attorney