



City of Madison

City of Madison
Madison, WI 53703
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Master

File Number: 46571

File ID: 46571

File Type: Resolution

Status: Council New
Business

Version: 2

Reference:

Controlling Body: COMMON
COUNCIL

File Created Date : 03/16/2017

File Name: ALTERNATE - Authorizing the City to reimburse legal fees to Chief Michael C. Koval, as allowed under Sec 62.09(7)(e), Wis. Stats., and, amending the 2017 Adopted Operating Budget to appropriate \$21,953 from the Contingent Reserve to Direct Appropriations.

Final Action:

Title: ALTERNATE - Authorizing the City to reimburse legal fees to Chief Michael C. Koval, as allowed under Sec 62.09(7)(e), Wis. Stats., and, amending the 2017 Adopted Operating Budget to appropriate \$21,953 from the Contingent Reserve to Direct Appropriations.

Notes:

Sponsors: David Ahrens, Barbara Harrington-McKinney and Sara Eskrich

Effective Date:

Attachments: CA May Memo on Reimbursement of Chief Koval's PFC fees 03222017.pdf, 4/13/17 City Attorney: Supplemental Memo on Koval Fees.pdf, Attachments to CA May memo on reimbursement of costs 03222017 .pdf, Koval Billing Summary.pdf, Decision and Order.final.conformed.pdf, 4/20/17 PFC_Letter_CCPresident.pdf, 4/25/17 PFC Response to Common Council.pdf, 4/28/17 CA May Second Supplemental Memo: Koval Fees with Calculations.pdf, 46571 v 1.pdf

Enactment Number:

Author: Ald. David Ahrens, District 15

Hearing Date:

Entered by: lveldran@cityofmadison.com

Published Date:

Approval History

Version	Date	Approver	Action
1	03/16/2017	Laura Larsen	Approve
2	05/01/2017	Laura Larsen	Approve

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Police Department	03/16/2017	Referred for Introduction				
	Action Text:	This Resolution was Referred for Introduction					
	Notes:	Board of Estimates					
1	COMMON COUNCIL	03/21/2017	Refer	BOARD OF ESTIMATES		03/27/2017	Pass
	Action Text:	A motion was made by Verveer, seconded by Rummel, to Refer to the BOARD OF ESTIMATES. The motion passed by voice vote/other.					
	Notes:						
1	BOARD OF ESTIMATES	03/27/2017	RECOMMEND TO COUNCIL TO ADOPT (15 VOTES REQUIRED) - REPORT OF OFFICER				Pass
	Action Text:	A motion was made by Rummel, seconded by Harrington-McKinney, to RECOMMEND TO COUNCIL TO ADOPT (15 VOTES REQUIRED) - REPORT OF OFFICER. The motion passed by the following vote:					
		Absent: 2 Sara Eskrich and Paul R. Soglin					
		Ayes: 4 Michael E. Verveer; Zach Wood; Barbara Harrington-McKinney and Maurice S. Cheeks					
		Noes: 1 Marsha A. Rummel					
1	COMMON COUNCIL	04/18/2017	Adopt - 15 Votes Required				
	Action Text:	A motion was made by Baldeh, seconded by Bidar-Sielaff, to Adopt - 15 Votes Required.					
1	COMMON COUNCIL	04/18/2017	Refer to a future Meeting to Adopt	COMMON COUNCIL			Pass
	Action Text:	A motion was made by Kemble, seconded by Baldeh, to Refer to a future Meeting to Adopt with instruction to the President of the Common Council to send a letter to the President of the Police and Fire Commission to clarify their decision with a deadline of 04/28/2017 for a response. The motion passed by voice vote/other.					
	Notes:	Adopt 5/2/2017 - 15 Votes Required					
1	COMMON COUNCIL	05/02/2017					

Text of Legislative File 46571

Fiscal Note

The proposed resolution provides authorization to reimburse Chief Michael C. Koval for legal fees associated with a complaint before the Police and Fire commission. The cost of Chief Koval's legal fees was \$21,953. The funds will be appropriated from the 2017 Contingent Reserve. If adopted, the remaining balance in the 2017 Contingent Reserve will be \$1,387,428.

Title

ALTERNATE - Authorizing the City to reimburse legal fees to Chief Michael C. Koval, as allowed under Sec 62.09(7)(e), Wis. Stats., and, amending the 2017 Adopted Operating Budget to appropriate \$21,953 from the Contingent Reserve to Direct Appropriations.

Body

WHEREAS, On August 15, 2016 and August 22, 2016, two Madison residents filed complaints with Police and Fire Commission (PFC) against Madison Police Department (MPD) Chief, Michael Koval, for his behavior in regard to three incidents on June 7, 2016 at the City-County Building during and after a meeting of the Common Council; and,

WHEREAS, On March 4, 2017, the PFC issued its Decision and Order in regard to the three complaints; and,

WHEREAS, in the complaint in regard to an incident in which Chief Koval was alleged to have mimicked a gesture of reaching for his gun, the PFC found arguments in support of the claim to be unconvincing; and,

WHEREAS, in the complaint in regard to an incident in which Chief Koval was alleged to have pounded on his desk during a speech by a complainant, the PFC found that the act did not constitute misconduct; and,

WHEREAS, in the complaint, in regard to an incident in which Chief Koval, admittedly, loudly called one of the complainants, “a raging lunatic,” the PFC found that the remarks constituted a violation of the MPD Standard of Conduct but that this behavior and comment were “unique and isolated” in his lengthy record of service; and,

WHEREAS, in its Order, based on the evidence presented at the hearing and their views of the credibility of the witnesses, the PFC dismissed the Complaints against Chief Koval with prejudice; and,

WHEREAS, Resolution 16-00697 was introduced on August 23, 2016 and enacted on September 20, 2016, which requires the City to provide the same policy for reimbursement of fees for a Police or Fire Chief as the City provides for members of MPPOA if the claimant “prevails” before the PFC or a court; and,

WHEREAS, the city, under its labor agreement with MPPOA, provides full reimbursement of legal fees to MPD personnel covered by the labor agreement; and,

WHEREAS, members of the Common Council have engaged in lengthy analysis, reflection on and discussion of the facts of the Complaints, the relevant state statutes, city resolutions, ordinances and the findings of fact and Order of the PFC and the perspectives of many members of the community who support and oppose such payments; and

WHEREAS, different members of the Common Council have expressed support for full payment of the legal fees, partial payment, and non-payment of fees based on their interpretation and understanding of the complaints in their totality and the meaning of the term “prevail”,

THEREFORE, BE IT RESOLVED, that the Common Council hereby approves the payment of \$21,953 for the legal fees of Chief Koval based on the legal requirements and precedent relevant to this matter; and,

BE IT FUTHER RESOLVED, that the payment of legal fees does not constitute the Council’s sanctioning of the acts under review; and,

BE IT FINALLY RESOLVED, that the Common Council asserts the importance of ending this legal dispute and focusing on seeking constructive solutions, with our community, to the

continued challenges in front of us.