



# City of Madison

City of Madison  
Madison, WI 53703  
www.cityofmadison.com

## Master

**File Number: 46571**

**File ID:** 46571

**File Type:** Resolution

**Status:** Items Referred

**Version:** 3

**Reference:**

**Controlling Body:** COMMON  
COUNCIL

**File Created Date :** 03/16/2017

**File Name:** 2ND 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 \$15,601 from the Contingent Reserve to Direct Appropriati

**Final Action:**

**Title:** 2ND 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 \$15,601 from the Contingent Reserve to Direct Appropriations.

### Notes:

**Sponsors:** Rebecca Kemble and Amanda Hall

**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 2 Alternate.pdf, 46571 v 3 2nd Alternate.pdf

**Enactment Number:**

**Author:** Ald. Rebecca Kemble, District 18

**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
2	05/02/2017	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				
	<b>Action Text:</b>		This Resolution was Referred for Introduction				
	<b>Notes:</b>		Board of Estimates				
1	COMMON COUNCIL	03/21/2017	Refer	BOARD OF ESTIMATES		03/27/2017	Pass
	<b>Action Text:</b>		A motion was made by Verveer, seconded by Rummel, to Refer to the BOARD OF ESTIMATES. The motion passed by voice vote/other.				
	<b>Notes:</b>						
1	BOARD OF ESTIMATES	03/27/2017	RECOMMEND TO COUNCIL TO ADOPT (15 VOTES REQUIRED) - REPORT OF OFFICER				Pass
	<b>Action Text:</b>		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				
	<b>Action Text:</b>		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
	<b>Action Text:</b>		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.				
	<b>Notes:</b>		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 a portion of legal fees associated with a complaint before the Police and Fire commission. The payment authorized by Council is \$15,601. The funds will be appropriated from the 2017 Contingent Reserve. If adopted, the remaining balance in the 2017 Contingent Reserve will be \$1,393,780.

**Title**

2ND 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 \$15,601 from the Contingent Reserve to Direct Appropriations.

**Body**

WHEREAS, on August 15, 2016 and August 22, 2016, two Madison residents, Sharon Irwin and

Shadyra Kilfoy-Flores, filed complaints with Police and Fire Commission (PFC) against Madison Police Department (MPD) Chief, Michael Koval, for his behavior in regard to incidents that occurred 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 what they deemed to be three separate incidents contained in the complaints; and,

WHEREAS, in the incident in which Chief Koval was alleged to have moved his hand to his service weapon while in a confined hallway space, PFC found arguments in support of the claim to be unconvincing; and,

WHEREAS, in the incident in which Chief Koval was alleged to have pounded on his desk during Sharon Irwin's public testimony in front of the Common Council, the PFC found that the act did not constitute misconduct; and,

WHEREAS, in the incident in which Chief Koval admitted to loudly calling Sharon Irwin "a raging lunatic" two times, the PFC found that the remarks constituted a violation of the MPD Standard of Conduct; and,

WHEREAS, in its Order, based on the evidence presented at the hearing and the scope of their authority to assess remedies, the PFC dismissed the Complaints against Chief Koval with prejudice;

WHEREAS, the PFC dismissal Order was constrained by the limited scope of remedies they are authorized to assess, and did not reflect the issue of whether or not Chief Koval violated policy; and,

WHEREAS, Resolution 16-00697 was introduced on August 23, 2016 and enacted on September 22, 2016, in which the Common Council committed, "to providing the police chief and the fire chief the same protections provided to other police officers and firefighters facing complaints at the PFC, and to exercise its discretion under sec. 62.09(7)(e), Wis. Stats. to reimburse the chiefs for the reasonable costs and fees incurred, if the chief prevails in the proceedings"; 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, the contracts of four separate collective bargaining units within the Police and Fire Departments, 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, Chief Koval has been billed \$21,953 by Pines Bach LLP for costs and attorney fees related to this matter as well as costs and attorney fees related to another Complaint brought against him by Roxanne Stillman, which was dismissed; and,

WHEREAS, the charges associated with the Stillman Complaint are \$2,898, leaving a balance of \$19,055 related to the Irwin/Kilfoy-Flores Complaints; and,

WHEREAS, the PFC found that Chief Koval violated the MPD Code of Conduct in one of the three incidents alleged in the Irwin/Kilfoy-Flores Complaints; and,

WHEREAS one third of \$19,055 is \$6,352,

NOW THEREFORE BE IT RESOLVED, that pursuant to sec. 62.09(7)(e), Wis. Stats., and Resolution 16-00697 the Common Council exercises its discretion under sec. 62.09(7)(e), Wis. Stats. to authorize the Mayor and Finance Director to reimburse Chief Michael C. Koval in the amount of \$15,601 (\$21,953 less \$6,352), for his attorney fees in this matter; and,

BE IT FURTHER RESOLVED, that \$15,601 is appropriated from the Contingent Reserve to Direct Appropriations-Legal Services; and,

BE IT FINALLY RESOLVED, that this resolution specifically does not set a precedent that city staff should expect reimbursement for the highest cost representation available .