

LRB-RESEARCH AND ANALYSIS SECTION

FINANCE & PERSONNEL COMMITTEE

ITEM 12, FILE # 070713

SEPTEMBER 19, 2007

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A resolution appropriating \$100,000 from the Common Council Contingent Fund to the Outside Counsel/Expert Witness Fund Special Purpose Account (SPA).

Background

1. Common Council File # 030083 placed expenditure authority for the Outside Counsel/Expert Witness Fund Special Purpose Account with the Office of the City Attorney.
2. The amount budgeted for the Outside Counsel/Expert Witness Fund Special Purpose account in the 2007 budget is \$225,000.
3. The most recent report by the City Attorney (File # 060942) concerning expenditures from the Outside Counsel/Expert Witness Fund SPA shows expenditures in 2007 of approximately \$200,000 through September 11, 2007.

Discussion

1. Among other demands upon the Outside Counsel/Expert Witness Fund SPA, two ongoing matters continue to require substantial expenditures. The firm of Gunta & Reak has been paid more than \$69,000 in the current year primarily for work and expenses related to the Jude litigation. The firm of Miller & Van Eaton has been paid nearly \$68,000 for work and expenses related to the AT&T litigation and the development of an agreement for AT&T's U-verse, the brand name for AT&T's portfolio of Internet protocol (IP)-enabled services including television. Over the period of nearly a year prior to July 1, 2007, Miller & Van Eaton has received payments from the City totalling \$256,881.03. In addition to amounts from the Outside Counsel/Expert Witness Fund SPA, amounts have been paid to Miller & Van Eaton from the Damages and Claimms Fund SPA. As a result of litigation and negotiations, AT&T has reimbursed the City \$217,530.59.
2. Anticipated demands upon the Outside Counsel/Expert Witness Fund SPA for the remainder of the fiscal year will exhaust the Fund leaving the City unable to meet legal obligations unless additional funds are appropriated.
3. The Office of the Comptroller has reported the status of the Common Council Contingent Fund as of September 14, 2007 showing the fund to be 55% expended or reserved with a balance available of \$2,472,000.

Summary of Fiscal Impact

1. This resolution will reduce the Common Council Contingent Fund by \$100,000 leaving a balance of \$2,372,000 for the 2007 fiscal year.
2. Past experience and anticipated circumstances show that the appropriation of \$100,000 to the Outside Counsel/Expert Witness Fund SPA is necessary to assure that the City meets its legal obligations.

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