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June 29, 2007

Mr. Barry J. Zalben
Manager
Legislative Reference Bureau
Room B-11, City Hall

Re: Suspension of Expenditures for Surveillance
Cameras by the Common Council

Dear Mr. Zalben:

On June 19, 2007, the Finance & Personnel Committee deleted a proposed \$525,000 expenditure for surveillance cameras from a larger Contingent Fund expenditure. Subsequently, funding was reallocated from DPW's Capital Improvement Budget Facilities Account and the Police Department Operating Budget to this purpose. On June 26, 2007, you wrote on behalf of Ald. James Bohl for our opinion on two questions relative to the possible suspension of these expenditures by the Common Council.

You have first asked:

“May the Common Council suspend the expenditure of DPW and Police Department funds related to the purchase and implementation of the surveillance cameras?”

The Common Council may suspend expenditures pursuant to MCC 18-06-13, which reads as follows:

“The Common Council may at any time suspend the expenditure of any fund assigned to any department by the budget which has not been expended or reserved for the payment of indebtedness incurred by the department. Such action shall be by a majority vote of all aldermen...”

Mr. Barry J. Zalben
June 29, 2007
Page 2

However, we are aware that a "vendor contract" for this work has already been let and that some cameras have already been ordered and/or provided. Because the "vendor contract" does not obligate the City to purchase any specific number of cameras, the Council may suspend expenditure of the funds except for cameras already ordered under that contract. If the Common Council voted to suspend future expenditures, the City's liability to the contractor would be limited to the costs of the cameras ordered under the contract.

Second, you have asked:

"May the Common Council so suspend the expenditure of funds by immediate adoption of a resolution under suspension of the rules at the next Common Council meeting, or must a resolution be introduced to Council and referred to the appropriate Council committee for a public hearing?"

Pursuant to MCC 18-06-13, quoted above, the Common Council may "at any time" suspend the expenditure of funds. Article IV, Section 3, of the Common Council rules requires a two-thirds vote of all members of the Council to pass a resolution on the day it is introduced.

Additionally, we find MCC 4-21-1 inapplicable here. It provides that all proposed resolutions appropriating money or creating a charge against City funds must be sent to committee and acted upon at a subsequent Council meeting. However, the action here is a proposed suspension of an expenditure and not an appropriation or charge. Neither referral to a committee nor action at a future meeting is required. The matter may be introduced and acted upon at the next meeting.

Mr. Barry J. Zalben
June 29, 2007
Page 3

Please do not hesitate to contact us if you have any additional questions or concerns.


Very truly yours,



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VDM:dms

c: Mayor Tom Barrett
Budget Director Mark Nicolini
City Clerk Ron Leonhardt
DPW Director Jeff Mantes
Chief of Police Nannette Hegerty
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