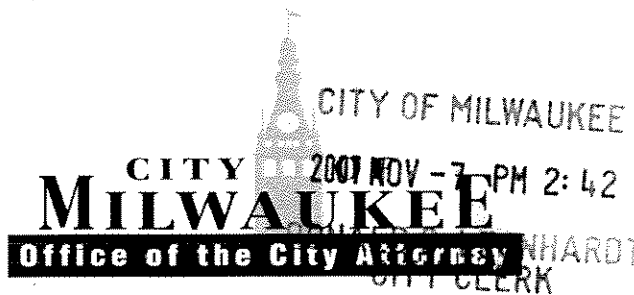


C. 041157 - Public Safety

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November 6, 2007

To the Honorable,
Common Council of
the City of Milwaukee
Room 205 – City Hall

Re: File No. 041157 – Agreement to Assign Police Officers to Taverns

Dear Council Members:

This file would create new MCO 304-83 codifying past City policy regarding grants for law enforcement officers. Presently the City has five such agreements with public or quasi-public entities: MPS, the Stadium, UWM, Bradley Center, and West Shore Pipeline. Under all of these agreements, the other party provides the City with funds that are used to pay for additional police services above and beyond the usual. The concern with the new ordinance is that it adds an additional category - officers assigned to licensed alcohol beverage establishments, with the cost paid by the establishment. Since public funds would not be expended, there is not a violation of the public purpose doctrine. Even if public funds were arguably expended directly or indirectly by the presence of officers in taverns, this doctrine is so broad that such expenditures do not create an issue. *Town of Beloit v. County of Rock*, 2003 WI 8. The proposed ordinance does provide for the approval of the Chief of Police prior to the City entering into an agreement with such an establishment, so the prerogatives of the Chief relative to the assignment of officers would not be violated. Thus, we have approved this proposed ordinance as to its legality and enforceability.

However, we caution that any agreement that is entered into under this proposed ordinance should contain a provision whereby the licensed premises agrees to indemnify and hold harmless the City from any liability that might result from the presence of an officer in the establishment. A necessary corollary to such an indemnification provision would be adequate insurance coverage to support the contractual undertaking to indemnify and hold the city harmless. Thus, we would recommend that the proposed ordinance include a provision that any such agreement shall be subject to the approval of the City Attorney as to form and content.

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Finally, in order to avoid claims that the City has coerced participation in such an agreement, we would suggest that the ordinance include a provision stating that: "A licensed establishment's participation or non-participation in such an agreement shall not be considered by the common Council in granting, renewing, suspending, not renewing, or revoking the license."

Please do not hesitate to contact us should you require further assistance in this matter.

Very truly yours,



GRANT E. LANGLEY
City Attorney



VINCENT D. MOSCHELLA
Deputy City Attorney

VDM:dms

c: Tom Barrett
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