

**LRB-FISCAL REVIEW SECTION ANALYSIS**

**FINANCE AND PERSONNEL COMMITTEE**

**ITEM 14, FILE # 050980**

**NOVEMBER 30, 2005**

**MARK A. RAMION**

File # 050980 is a resolution appropriating \$85,000 from the Common Council Contingent Fund to the Outside Counsel/Expert Witness Fund Special Purpose Account.

**Background**

1. This resolution will appropriate \$85,000 from the Common Council Contingent Fund to the Outside Counsel/Expert Witness Fund Special Purpose Account for the purpose of retaining experts and outside legal counsel.
2. This SPA supports outside legal services and experts in specific major court cases. Funds are approved case-by-case and appropriated to a sub-account under City Attorney expenditure authority; the City Attorney's Office tracks costs for each case and can transfer unspent funds among cases. The purpose of the fund is to minimize Contingent Fund exposure and large unspent balances in closed cases.
3. Common Council File 030183 placed the expenditure authority for the Outside Counsel/Expert Witness Fund under the City Attorney's Office so that all expenditures for outside counsel and experts are now paid through this fund subject to certain reporting requirements imposed by the Judiciary and Legislation Committee.
4. This is the second Contingent Fund transfer to this SPA in 2005. File # 050436 appropriated \$75,000 from the Common Council Contingent Fund to the Outside Counsel/Expert Witness Fund Special Purpose Account in July 2005.

**Discussion**

1. The City Attorney has determined that the existing funding in the Outside Counsel/Expert Witness Fund will not be sufficient to fulfill the legal obligations for the remainder of 2005. The 2005 budget provides \$225,000 for this SPA, a similar amount as budgeted in 2004 and, likewise, for 2006.
2. This additional funding is related to additional legal expenditures, primarily for the "Sewers Overflows Litigation" through the remainder of 2005. In 2004, the State of Wisconsin notified the City and 27 other communities that are tributary to the Milwaukee Metropolitan Sewerage District that it planned to file a lawsuit seeking penalties and affirmative injunctive relief as a result of, in part, alleged violations of various water pollution control laws. This "Sewers Overflows Litigation" case required outside counsel and has been settled.

3. A significant amount of this year's SPA, 34% or \$78,018, has been paid to fulfill legal expenses related to the case of Alexander, et al. v. City of Milwaukee.
4. This account had formerly required large supplements from the Contingent Fund (\$575,000 in 1998, \$329,000 in 1999, and \$610,000 approved by the Council for 2000) related to legal costs associated with the Global Pension Settlement.

**Fiscal Effect**

1. The total amount of this resolution is \$85,000 from the Common Council Contingent Fund.
2. The 2005 Common Council Contingent Fund, as of November 23, 2005, has a balance of \$3.553 million.

Prepared by: Mark A. Ramion, X8680  
LRB-Fiscal Review Section  
November 29, 2005

Cc: Marianne C. Walsh  
W. Martin Morics  
Grant Langley  
Barbara Woldt