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January 17, 2014

To the Honorable Common Council  
of the City of Milwaukee  
Room 205 - City Hall

Re: Communication from Attorney Dennis P. Coffey, Mawicke & Goisman,  
S.C. for legal fees for former Police Sergeant Jason R. Mucha

Dear Council Members:

Returned herewith is a document filed by Attorney Dennis P. Coffey for attorney's fees for representing former Police Sergeant Jason R. Mucha. The claim is in the amount of \$5,100.00. The claim for legal fees is for 25.50 hours of service billed at the rate of \$200.00 per hour. We ask that this matter be introduced and referred to the Committee on Judiciary & Legislation.

We have reviewed this claim and advise that in our opinion, the time spent was reasonable. Legal representation was occasioned by criminal proceedings. Ultimately, former Sergeant Mucha was not prosecuted for any criminal or civil offense.

This claim again represents an opportunity for the Common Council to consider such a request under the amended Wis. Stats. §895.35(2). The pertinent language in that statute is the following: "the city...shall reimburse a protective services officer for *reasonable attorney fees* incurred by the officer in connection with a criminal proceeding arising from the officer's conduct in the performance of official duties..." except for certain circumstances that do not apply here. (Emphasis supplied). The amended statute thus removes discretion from the City over whether to pay such claims arising from certain criminal proceedings, but does not specify what are to be deemed "reasonable" attorneys fees.

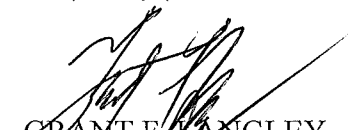
As to the proper definition of "reasonable" attorney fees, such a requirement has been interpreted by the Wisconsin Supreme Court in the past in a comparable context. *Village of Shorewood v. Steinberg*, 174 Wis. 2d 191, 204-5, 496 N.W.2d 57 (1993). In doing so, it referred to one of its rules, SCR 20:1.5, relating to fees that attorneys may charge. The factors prescribed by that rule include: 1) time and labor required, 2) novelty and

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difficulty of the questions involved; 3) skill required to perform services; 4) apparent likelihood that lawyer will be precluded from other work; 5) the fee customarily charged; 6) amount involved and results obtained; 7) limitations imposed by client or circumstances; 8) nature and length of the relationship; 9) experience and ability of the lawyer; and, 10) whether the fee is fixed or contingent. Given what we know of this situation, the time and labor required, the skill required to perform the services, the fee customarily charged, and the experience and ability of the lawyer support the hourly rate of \$200.00.

Under all the circumstances, therefore, we conclude that the City is obligated to pay \$5,100.00 for attorneys' fees in this matter.

Very truly yours,



GRANT F. LANGLEY  
City Attorney



JAN A. SMOKOWICZ  
Assistant City Attorney

JAS  
Enc.

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