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February 2, 2007

Alderman Michael D'Amato
City Hall, Room 205

Re: Authority Through Legislation to Authorize Police Chief and MPD to use
Surveillance Cameras (UASI Grant)

Dear Alderman D'Amato:

On October 22, 2006, you asked about the Police Chief's authority to place security cameras on public property. In a subsequent phone conversation with Deputy City Attorney Vince Moschella, you noted two specific questions. First, whether the Police Chief can unilaterally place surveillance cameras on public facilities, or whether Common Council permission was required. Second, if Council permission is required, whether the Council could specify certain locations for the cameras. The funding for these cameras was provided by the United States Department of Homeland Security pursuant to an Urban Areas Security Initiative grant. The Common Council has already authorized the application for, and the acceptance and expenditure of, the grant. As we will explain in greater detail, we are of the opinion that the Chief may not unilaterally place the cameras on public facilities, but neither may the Council direct the Chief as to where the cameras must be placed.

As for your first question, § 4-10 of the City Charter provides, in relevant part: "The common council shall have the management and control of the finances, and of all the property of the city...." Section 7-04 of the Charter further provides, in part:

It shall be the duty of the commissioner of public works to take special charge and superintendence, subject to such ordinances as may be lawfully passed by the common council, of all streets, alleys,

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highways, sidewalks, crosswalks, bridges, walks, public grounds, engine houses, and of all other public buildings and grounds belonging to the city or any of the wards of such city....

Thus, the Chief may not unilaterally determine whether and where to place security cameras on public property. The Common Council and the Commissioner of Public Works are given control of City property, including for instance, light poles and traffic signals where surveillance cameras might be placed. The Chief should therefore consult with the Commissioner regarding the placement of such cameras. The Council could also enact general regulations regarding the placement of such cameras.

As for your second question however, Wis. Stat. § 62.50(23), which outlines the duties of the Chief of Police of a first class city, provides, in part: "Each of the chiefs shall maintain and have custody of all property of their respective departments...." In other words, custody of the surveillance cameras themselves lies with the Chief. Moreover, Wis. Stat. § 62.50(23), further provides: "The chief of police shall preserve the public peace and enforce all laws and ordinances of the city [and] shall be responsible for the efficiency and general good conduct of the department...." Thus, we do not believe the Common Council may direct the Police Chief to place surveillance cameras in particular locations.

We hope this answers your questions. If you require additional assistance, please do not hesitate to contact us.