

# City Attorney

Presentation to the Finance  
& Personnel Committee

October 4, 2019

# 2020 Budget Summary

	2019 Adopted Budget	2020 Proposed Budget	Difference (Amount, %)
FTEs – O&M	60	58.5	-1.5 (-2.5%)
FTEs - Other	2	2.5	.5 (25%)
Salaries & Wages	\$4,624,294	\$4,546,876	-\$77,418 (-2%)
Fringe Benefits	2,080,931	2,046,094	-34,837 (-2%)
Operating Expenditures	342,500	342,500	\0
Equipment	36,000	36,000	0
Special Funds	0	0	0
<b>TOTAL</b>	<b>\$7,083,725</b>	<b>\$6,971,470</b>	<b>-112,255 (2%)</b>

# 2020 Revenues

	<b>2019 Adopted Budget</b>	<b>2020 Proposed Budget</b>	<b>Difference (Amount, %)</b>
Charges for Service	\$904,000	\$910,000	\$6,000 (.6%)
<b>TOTAL</b>	\$904,000	\$910,000	\$6,000 (.6%)

# Special Purpose Accounts

Special Purpose Account	2019 Adopted Budget	2020 Proposed Budget	DIFFERENCE (Amount, %)
Damages & Claims Fund	1,225,000	1,225,000	0
Insurance	655,000	922,000	267,000 (41%)
Outside Counsel-Expert Witness	850,000	450,000	-400,000 (-47%)
<b>Total SPAs</b>	<b>\$2,730,000</b>	<b>\$2,597,000</b>	<b>-\$133,000 (-6%)</b>

# Budgetary Changes

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- The 2020 Operating Proposed Budget has been decreased by approximately 1.5% from the 2019 adopted budget
  - Salary savings are due to anticipated vacancies
- Special purpose accounts
  - Insurance costs have increased by \$267,000
  - Anticipate requiring \$400,000 less in outside Counsel Expert Witness costs

# Community Goals and Department Objectives

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1. Improve the city's fiscal capacity
  - Protect the city's interests in litigation
  - Manage risk so that liabilities do not disrupt finances
2. Support the city's interests and policy initiatives
3. Develop and sustain legal strategies to promote respect for individual civil liberties
4. Sustain safe and healthy neighborhoods
  - Reduce nuisances that detract from neighborhood quality of life

# Organizational Opportunities

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## **Assistant City Attorney (ACA) turnover:**

- Filling 3 ACA positions: 1 retirement and 2 attorneys that left for opportunities elsewhere
- Provides an opportunity to augment a strong roster of attorneys with promising talent and fresh perspectives
- Ongoing issues with staff retention

## **Diversity Clerkship:**

- Participation in State Bar program to introduce law students from diverse backgrounds to the practice of law

# Organizational Opportunities

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## Recruitment Successes:

- Between October 2018 & September 2019 the department successfully hired 8 attorneys from a single ACA eligible list and 1 attorney from a eligible list from another department.
  - All new ACA hires joined the City Attorney's Office with strong experience in municipal law.
  - 5 ACA I hires and 4 ACA III hires
  - The Milwaukee City Attorney's Office continues to be an employer of choice for public sector legal positions in Southeastern Wisconsin.



# Staffing Challenges

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- Difficulties in the retention of attorneys due to market salary competition
- Suspension of 2019 ACA merit pay plan
- Suspension of all 2020 merit pay increases
- Equity and budgetary concerns prohibit hiring at higher salary levels
- In 2019, 3 Assistant City Attorneys left the office (1 retired and 2 left after less than 7 years in the office)

# Staffing Challenges

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- Currently 2/3 of our 34 ACA's have less than 7 years of experience in our office.
  - 9 ACA's, 26% of our 34 ACA's with less than 1 year of experience in our office.
- Only 11 of our ACAs have more than 7 years of experience in our office and 5 of those 11 are eligible for retirement.
- Of the 4 Deputy City Attorneys 2 are eligible for retirement.
- The loss of experience and institutional knowledge requires greater supervisory oversight & training and results in service delivery challenges.

# Highlights – All Sections

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## **2020 Democratic National Convention:**

- Negotiated and drafted the agreement for the Convention.
- Developing procurement procedures / requirements for the federal security grant.
- Preparing intergovernmental agreements (IGA) with fire depts. & law enforcement agencies (100 - 200 IGAs expected).
- Addressing anticipated 1st Amendment issues related to protestors and free speech zones.
- Assisting city departments with DNC related records requests.
- Drafting data sharing agreements with Secret Service & others.
- Assisting DPW with permitting and transportation matters.
- Assisting DER with employment related policies during DNC.

# Highlights – Employment, Labor, & Benefits Section

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## **Employment, Labor & Benefits group:**

- 150 pending discrimination cases at administrative agencies
- 10 pending discrimination cases in Federal Court
- 48 new discrimination complaints, 8 FPC appeals and 8 duty disability retirement appeals filed to date in 2019
- 14 WERC cases file in 2019
- 113 legal service assignments to date in 2019
- On-going telephone and in person consultations and assistance in HR matters

# Highlights – Employment, Labor, & Benefits Section

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## Opinions regarding:

- ERS administration
- Trump administration “gag rule” affecting womens’ health services
- Outside employment of MPD officers
- Uniformity Clause and possible sales tax increases
- Consolidation of emergency management coordinator
- Disclosure of minor runaway records to MPD
- Board of Health
- Authority of FPC and Common Council on fire and police matters
- FPC Commissioners authority over FPC’s operations
- Legality of banning use of foreign language in the workplace

# Highlights – Employment, Labor, & Benefits Section

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## **Contract and other work:**

- Disparity Study
- Fund my Future Milwaukee Agreements
- Bublr Bikes Adaptive Cycles
- Debt Collection RFP
- Streetcar Location Services
- Trained MHD on contract issues
- FMLA Administration Service contract
- Saved \$500,000 in alleged unpaid sales taxes
- Public utility issues on solar power contract
- Obtained order for TB patient, leading to treatment

# Highlights – Real Estate, Education, & Housing Section

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## **Assisted in creating and amending several TIDs:**

- Solar Paints (50), Broadway & Michigan (83), 1st & Becher (94), Villard Avenue (95), Komatsu (96), The Avenue (97), The Ikon (98), Joy Farms (99), Zillman Park (100) and Strauss Brands (101)

## **Assisted on development projects:**

- Komatsu Mining, MSO/Grand Theater, The Avenue at the former Grand Avenue Mall, The Ikon Hotel project, The Beacon/Kinetik Apartments, Joy Farms, the “tiny homes” project for homeless veterans, Milwaukee Urban Stables, development by Strauss Brands at Century City, landscape connection to Historic Third Ward on Broadway and Soldier’s Home redevelopment by HACM

# Highlights – Real Estate, Education, & Housing Section

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- Successful decision from the 7<sup>th</sup> Circuit Court of Appeals on a student bussing case (*St. Joan Antida High School v. MPS*).
- Assist the City and RACM in partnering with MATC, JCP Construction and the Social Development Commission on a program to provide hands-on experience and training to unemployed residents in the rehabilitation of tax-foreclosed homes.
- Successfully defended BOZA in 5 appeals in circuit court (1 case currently on appeal and 3 others still pending).
- Filed 263 eviction cases for City and HACM-owned properties between July 1, 2018 and June 30, 2019 (evictions by HACM often remove tenants involved in criminal conduct and make housing available to others on HACM's waiting list).
- Provided approx. 18 public records / open meetings training sessions to various city departments & HACM.



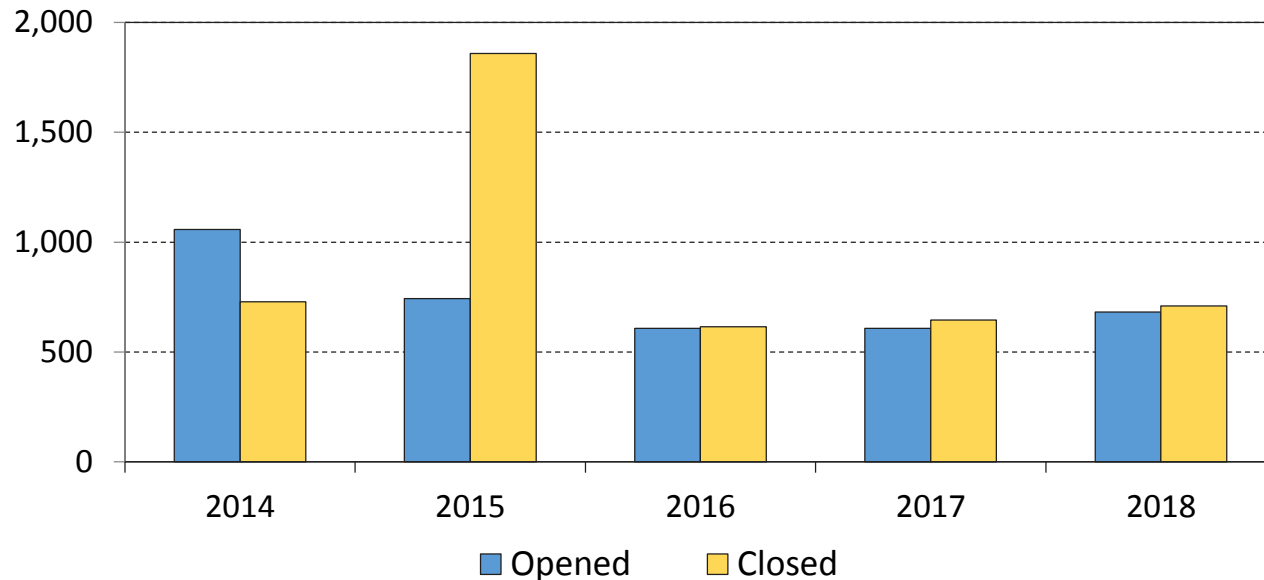
# Highlights – Litigation & Risk Management Section

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## Claims:

- Staffed by two adjusters and an administrative assistant
- Process all claims filed with city for investigation, analysis and any settlement
- City attorney may settle claims not involving a motor vehicle accident in an amount up to \$5,000
- City attorney may settle motor vehicle claims up to the statutory limit of \$250,000 but larger claims are submitted to Common Council for approval
- All of the adjusters' determinations reviewed by Deputy or Assistant City Attorney and ultimately by City Attorney

# Handling of Claims



Claims	2014	2015	2016	2017	2018	2019 (as of 09/19)
Total claims opened	1057	743	607	608	682	518
Total claims closed	728	1859	614	645	709	496
Total claims opened & closed w/i same year	438	530	401	417	454	325
Percentage opened & closed w/i same year	41.4%	71.3%	66.1%	68.6%	66.6%	62.7%

# Highlights – Litigation & Risk Management Section

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## **Matters in Litigation other than mortgage foreclosure actions:**

- 212 in 2017, 203 in 2018, 117 in 2019 through September 9th
- 246 cases closed in 2017 without payment
- 110 cases closed in 2018 without payment
- 122 cases closed without payment in 2019 through September 9th

# Highlights – Litigation & Risk Management Section

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## **Mortgage foreclosure actions:**

- 305 cases opened in 2017, 270 opened in 2018, 157 opened in 2019 through September 9th
- 173 cases closed in 2017, 384 closed in 2018, 227 closed in 2019 through September 9th
- 242 remained pending at end of 2017, 165 remained pending in 2018, and 209 remain pending in 2019 through September 9th

# Highlights – Litigation & Risk Management Section

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## Property Assessment Litigation:

- 38 cases pending with potential exposure of \$22,620,864
- Only one judgment against the City in the past six years and the adverse judgment is being appealed
- In 2019, won outright eight contested cases with potential exposure of \$8,000,000

# Highlights – Litigation & Risk Management Section

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## Significant property assessment lawsuits:

- *U S Bank, N. A. v. City of Milwaukee*
  - Assessment of office tower affirmed by Milwaukee County Circuit Court
  - Potential exposure of \$5,300,000
- *Wisconsin & Milwaukee Hotel, LLC. v. City of Milwaukee*
  - Assessments of hotel property affirmed by Wisconsin Court of Appeals
  - Potential exposure of \$970,400
- *Lindner Terminals v. City of Milwaukee*
  - Assessment of warehouse property affirmed by Milwaukee County Circuit Court
  - Potential exposure of \$275,000
- *JSWD Commerce, LLC v. City of Milwaukee*
  - Assessment of hotel property affirmed by Milwaukee County Circuit Court
  - Potential exposure of \$256,000

# Highlights – Neighborhood Revitalization & Ordinance Enforcement Section

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## State and Federal Litigation:

- Exploitative Landlord cases - Receiverships & property management paid for by income generated by properties.
- Serial Bankruptcy Filing Landlord cases - City continues to object to automatic stays and plans, real estate valuations and adversarial proceedings.
- Human Health Hazard cases – Unabated hoarding and infestations.
- Northridge Mall Raze litigation – Pending in circuit court, city counterclaimed with public nuisance action.
- COM v. Bird Rides Inc. – Federal litigation and mediation resulted in \$65k payment to city and \$30k in unbranded, in-kind contributions.

# Highlights – Neighborhood Revitalization & Ordinance Enforcement Section

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## Legal Services and Outreach:

- Community prosecution team continues to collaborate with other city departments and governmental agencies, local businesses, community based organizations and residents to holistically address chronic neighborhood and housing-related problems.
- Conducted dozens of property investigations and landlord/licensee interviews on behalf of MPD districts and DNS special enforcement.
- Monitoring & Objecting to Sheriff Sales for compliance with third party eligibility statute resulted in denial of new properties bought by problem landlords and generated \$25k in past due revenue.
- Investigated 88 In Rem Vacation applicants heard by Jud/Leg.
- 2020 Democratic National Convention preparations for free speech, civil disturbances, mass arrests, licensing and permitting.
- Continued collaboration with neighborhood associations, Legal Action of Wisconsin, Legal Aid Society and LISC regarding retaliatory evictions and substandard housing.



# Highlights – Neighborhood Revitalization & Ordinance Enforcement Section

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## **Building & Zoning Code Prosecutions:**

- 2019 YTD: 1,638 B&Z cases
- 2018: 1,540 B&Z cases

## **Municipal Court Prosecutions:**

- 2019 YTD: 980 trials, 6,833 pretrial conferences
- 2018 : 1,582 trials, 11,373 pretrial conferences
- 2017: 1,513 trials, 10,101 pretrial conferences

## **Department Trainings:**

- Milwaukee Police Department – nuisance abatement, community prosecution, recruit mock trials, traffic enforcement, school resource officers, prostitution stings
- Department of Neighborhood Services – court testimony & evidence, landlord training
- Health Department – lead abatement procedures, citation drafting
- City Clerk Licenses Division - PIVOT licensee training.