CITY OF MILWAUKEE

Form CA-43

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December 6, 1999

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

Re: Communication from Attorney Steven R. Kohn, Steven R. Kohn Law Office for legal fees for Police Officer Lamont Hodnett
C.I. File No. 98-L-148

Dear Council Members:

Returned herewith is a document filed by Attorney Steven R. Kohn for attorney's fees for representing Police Officer Lamont Hodnett. The claim is in the amount of $10,010.00 for 91 hours of service billed at the rate of $110 per hour. We ask that this matter be introduced and referred to the Committee on Judiciary & Legislation.

Legal representation was occasioned by a criminal prosecution. Former Police Officer Lamont Hodnett was charged with the crime of first degree reckless injury while armed. This crime is a felony. §940.23(1)(a), Stats.

The criminal proceeding against Hodnett stemmed from an incident in May, 1998, when the officer, while off-duty, in plainclothes, and driving his private vehicle followed an individual off the expressway to a private home where Hodnett confronted the individual about his driving. The pertinent events took place during evening hours, some time after bar closing. Hodnett had followed a gentleman by the name of Gerry Brumfield off of the highway. After leaving the expressway, Brumfield then drove to the residence of his cousin, Gregory Thornton.

During the course of an exchange of words between Hodnett and Brumfield, Thornton approached. Hodnett remained in his private vehicle throughout the incident. At some point while all three of the men were in close proximity to one another, Hodnett drew his service weapon from between his legs and shot Thornton twice, once in the shoulder and once in the hip. Thornton was seriously, though not mortally, wounded. Hodnett sped away, and drove for a number of blocks in the area before stopping about one block from the scene of the incident. Within a fairly short period of time, he called police for assistance.

The transcript of the criminal proceeding reveals some substantial differences between Hodnett and the two other gentlemen in their recollection of this incident. Brumfield, for example, recalls his conversation with Hodnett to be calm, while Thornton and Hodnett describe the conversation as heated. Perhaps more significantly, Hodnett maintains that he identified himself as a police officer and displayed his badge during his conversation with Brumfield, but Brumfield and Thornton both deny that Hodnett *ever* identified himself in any fashion as a police officer. Thornton insists that when this incident occurred he was neither armed nor made any threatening gestures towards Hodnett. Hodnett, on the other hand, maintains that before he shot Thornton, Thornton had removed a weapon from his waistband and had verbally threatened Hodnett. No weapon was ever recovered from the scene.

In the criminal trial, Hodnett testified that he had followed and spoken to Brumfield to caution him about his erratic, unsafe driving. Hodnett admitted that he had no intention of arresting, citing or otherwise prosecuting Brumfield, but he maintains that he did speak to him as a law enforcement officer warning a citizen about bad driving.

The above-described events can be construed in one of two ways. If you accept Hodnett's version of the events, he was acting in no different fashion than as a zealous, off-duty police officer, attempting to deter a citizen from unsafe driving around bar time. If you accept the private citizens' version of events, this boils down to nothing more than a personal grudge match.

At the conclusion of the criminal proceedings, the jury found Hodnett to be not guilty of the crime as charged. Hodnett was, however, the subject of an internal affairs investigation of this incident, and that resulted in his discharge. The Fire and Police Commission has recently upheld that discharge. The Chief's charges fell into three categories: 1) Hodnett's violation of a departmental rule prohibiting him from being armed while drinking off duty; 2) Hodnett's failure to safeguard his department-supplied equipment when he admittedly left his service weapon in his open-top Corvette while he was in a bar drinking before the above-described incident; and, 3) Hodnett's failure to act properly to secure the scene of the shooting after it had occurred or to summon medical assistance when he called 911. What may be more significant about these three charges is the lack of any charge that Hodnett acted in any way improperly in actually confronting Brumfield or shooting Thornton.

As we have advised you under similar circumstances in the past, the Common Council has discretion to reject this claim or to pay it in whole or in part. Sec. 895.35, Stats., *Bablitch and Bablitch v. Lincoln County*, 82 Wis. 2d 574 (1978). The statute has been interpreted as allowing for the payment of attorney's fees for off-duty individuals who are required to defend themselves against charges when conviction would result in the loss of public employment. 55 Op. Atty. Gen. 85 (1966).

Very truly yours,

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