



Legislation Text

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THE CHAIR

Resolution authorizing engagement of a consultant to assist in the compilation of records pertaining to police officer compensatory time off in conjunction with a litigation entitled Bradley DeBraska, et al. v. City of Milwaukee, U.S. District Court, Eastern District of Wisconsin, Case No. 96-C-402. (City Attorney)

Resolution authorizing the City of Milwaukee to engage a consultant to assist various City departments with respect to the compilation of records of police officer compensatory time off in conjunction with the ongoing proceedings in the United States District Court for the Eastern District of Wisconsin entitled Bradley DeBraska, et al. v. City of Milwaukee, Case No. 96-C-402.

Whereas, On April 8, 1996, the Milwaukee Police Association IUPA Local No. 21 AFL-CIO ("MPA") and numerous individual police officer-plaintiffs brought suit against the City of Milwaukee ("City") alleging that the City had failed to comply with the requirements of the Fair Labor Standards Act, 29 U.S.C. §§201-219 ("FLSA") in various respects, among which was included the manner by which the Milwaukee Police Department administered police officer access to earned and accrued compensatory time off ("CTO") balances; and

Whereas, On September 26, 2000, and following protracted litigation, the Court, by Senior United States District Judge Myron L. Gordon, ruled that the Milwaukee Police Department's system for governing police officer access to earned and accrued CTO balances failed to comply with the requirements of the FLSA, and ordered further proceedings concerning the nature and extent of damages and/or other remedies to which the plaintiffs might be entitled from the City as a consequence of that ruling; and

Whereas, Following Judge Gordon's retirement, these proceedings were reassigned to United States District Judge Charles N. Clevert; and

Whereas, Judge Clevert, on February 5, 2001 and after having received and considered suggestions from both the City and the plaintiffs concerning the procedure to be utilized for determination of the foregoing issues relating to damages and remedies, ordered that the matter be referred to mediation before Mr. Daniel J. Nielsen, a member of the staff of the Wisconsin Employment Relations Commission ("WERC"), and further ordered a target date of July 1, 2001 for completion of mediation efforts; and

Whereas, Both the FLSA's requirements that are imposed upon employers with respect to maintenance of CTO records and the issues to be raised and addressed during the upcoming mediation proceedings mandate that the City compile and have readily available for the period of time commencing with Pay Period 8 of the year 1993 up through and including the present a variety of information and records pertaining to police officer CTO accrual, usage, and balances and related issues that may arise during the course of mediation and/or other subsequent proceedings, either

before Mr. Nielsen or Judge Clevert; and

Whereas, The Office of City Attorney has contacted several City departments that might possess either these records or the data from which such records may be derived including: (a) the Police Department; (b) the Office of the Comptroller; and (c) the Department of Administration - Information and Technology Management Division ("ITMD"), and has been informed by each of these Departments that they either do not have the necessary records in their possession, or that they do not possess sufficient resources or expertise to compile and present them in a manner or format that would be acceptable or useful for purposes of further proceedings in the above-referenced litigation; and

Whereas, The Office of City Attorney believes it is both mandated by law and essential for the effective presentation of the City's position during the course of upcoming mediation proceedings or further litigation that such information be compiled, made easily accessible, and rendered in a form suitable for convenient summarization and presentation as may be needed from time-to-time; and

Whereas, Given the pendency of mediation proceedings, which are scheduled to commence within the next few weeks and the short timeframe for completion of those proceedings, as ordered by Judge Clevert, it is most imperative that the process of compilation and summarization of the City's records concerning police officer CTO accrual, usage, and balances and related issues begin without further delay; and

Whereas, Mr. Randolph A. Gschwind, by letter dated February 14, 2001, has recommended that in light of the circumstances, the best course of action would be to engage an outside consultant to assist with the compilation, summarization, and presentation of all available City records pertinent to the foregoing subjects, and has further indicated a projected project cost of \$15,000 - \$25,000; and

Whereas, The Office of City Attorney endorses Mr. Gschwind's proposal, and recommends that the amount of \$25,000 be made available for the engagement of a consultant to perform the foregoing tasks, particularly in light of the significant possibility that unanticipated work might be required from such a consultant on an "as needed" and (often) short-notice basis during the course of mediation or future litigation proceedings; now, therefore, be it

Resolved, That the Office of City Attorney is hereby authorized to engage an outside consultant to assist in the compilation, summarization and presentation of City records pertaining to police officer CTO accrual, usage, and balances, commencing with pay period 8 of 1993 up through and including the present; and, be it

Further Resolved, That the consultant to be engaged for this purpose shall work under the direction of the Office of City Attorney, and shall cooperate with representatives of the Police Department, the Office of the Comptroller, the Department of Administration - Information and Technology Management Division, and all other City departments that may hereafter become involved in this matter, in conjunction with the performance of the work within the scope of this Resolution; and, be it

Further Resolved, That the consultant to be engaged shall prepare any and all summaries and reports pertaining to police officer CTO accrual, usage, and balances and related matters as may be needed during the course of further proceedings in the above-referenced litigation or that may be directed by the Court, the mediator or the Office of City Attorney; and, be it

Further Resolved, That the amount of \$25,000 is hereby authorized to be expended from the Outside Counsel/Expert Witness Special Purpose Fund, Account No. 0001-1490-0001-S157-2001, for the purpose of engaging a consultant to perform the tasks within the scope of this Resolution; and, be it

Further Resolved, That the Office of the City Attorney is hereby authorized and directed to pay fees incurred by the consultant upon receipt of an itemized bill, approved to be reasonable and necessary by the Office of the City Attorney; and, be it

Further Resolved, That the Office of City Attorney is hereby authorized and directed to execute all documents and to perform any and all other tasks as may be necessary to implement the terms of this Resolution, and that all other City departments having involvement in this matter are directed to cooperate with the Office of City Attorney in these respects; and, be it

Further Resolved, That the proper City officers be and are hereby authorized and directed to make whatever fund transfers are necessary or appropriate to carry out the provisions of this resolution; and that the application of the funds directed herein shall be subject to further direction of the Common Council.

City Attorney
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