



Agenda Report

MEETING DATE: Tuesday, February 9, 2021

TO: City Council

FROM: CITY ATTORNEY SMITH

SUBJECT: CITY ATTORNEY AUTHORIZATION TO RESPOND TO LAWSUITS IF
NO TIMELY COUNCIL MEETING

STATEMENT OF ISSUES:

Authorize City Attorney to file responses to lawsuits if necessary after consulting with City Manager.

RECOMMENDED ACTION:

Resolution adopting a policy for responding to lawsuits within legal deadlines

Authorization to respond to lawsuits consistent with Council policies and practices after consultation with the City Manager and, if appropriate, the City's Risk Manager as long as the Council retains its prerogative to direct the management of any lawsuit against the City and the City Attorney reports to the Council on such action at the next regular meeting of the Council.

DISCUSSION:

Section 804 of the City Charter provides that the City Attorney has the power and is required to:

(a) Represent and advise the Council and all City officers in all matters of law pertaining to their offices;

(b) Represent and appear for the City in any or all actions and proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee or former City officer or employee in any or all actions and proceedings in which any such City officer or employee is concerned or is a party, for any action arising out of his employment or by reason of his official capacity;

(g) Perform such other legal duties consistent with this Charter as may be required of him by the Council; and

The Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein.

State and federal law generally require responses to lawsuits be filed with the court within 20 to 30 days (depending on which jurisdiction) after being delivered to the City Clerk's Office. Depending on when in the cycle of publicly noticed regular Council meetings the complaint is received by the City Clerk, the Council may not have a regular meeting in time for retention of counsel, obtaining legal advice and filing an appropriate court response. It is sometimes not possible to get agreement from opposing attorneys to wait for a Council meeting to obtain approval to respond to a lawsuit.

The City Attorney therefore proposes at the request of the City Manager that the City Attorney be authorized to respond to lawsuits consistent with Council policies and practices after consultation with the City Manager and, if appropriate, the City's Risk Manager as long as the Council retains its prerogative to direct the management of any lawsuit against the City and the City Attorney reports to the Council on such action at the next regular meeting of the Council.

FINANCIAL IMPACT:

No financial impact is expected.

ALTERNATIVE ACTION:

The Council could decline to so authorize, impose additional or different conditions or restrictions.

ATTACHMENTS AND/OR REFERENCES (If any):

None.