



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
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R-2011-0096 Resolution Introduced

Resolution Relative to Amending the City of West Allis Policies & Procedures Manual No. 805, Legal Representation of City Employees and Officers, Section 3.0 Policy, Section 4.0 References and Section 5.3 Procedures, Representation under City Attorney.

Introduced: 4/19/2011 Controlling Body: Administration & Finance Committee

Sponsor(s): Administration & Finance Committee

COMMITTEE RECOMMENDATION *adopt*

ACTION DATE:
APR 19 2011

MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
		Barczak				
		Czaplewski				
X		Kopplin	✓			
		Lajsic	✓			
		Narlock	✓			
		Reinke	✓			
		Roadt				
		Sengstock				
	X	Vitale	✓			
		Weigel				
		TOTAL	5			

SIGNATURE OF COMMITTEE MEMBER

Just Kopplin
 Chair Vice-Chair Member

COMMON COUNCIL ACTION ADOPT

ACTION DATE:
APR 19 2011

MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
	✓	Barczak	✓			
		Czaplewski	✓			
✓		Kopplin	✓			
		Lajsic	✓			
		Narlock	✓			
		Reinke	✓			
		Roadt	✓			
		Sengstock				✓
		Vitale	✓			
		Weigel	✓			
		TOTAL	9			1



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Resolution

File Number: R-2011-0096

Final Action:

Sponsor(s): Administration & Finance Committee

APR 19 2011

Resolution Relative to Amending the City of West Allis Policies & Procedures Manual No. 805, Legal Representation of City Employees and Officers, Section 3.0 Policy, Section 4.0 References and Section 5.3 Procedures, Representation under City Attorney.

WHEREAS, Policy No. 805, Legal Representation of City Employees and Officers, was originally included in the City of West Allis Policies & Procedures Manual on January 1, 1982; and,

WHEREAS, it is necessary to amend said policy at this time.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that Policy No. 805, Legal Representation of City Employees and Officers, Section 3.0 Policy, Section 4.0 References and Section 5.3 Procedures, Representation, are approved as presented in the attached restatement.

BE IT FURTHER RESOLVED that the City Administrative Officer, Clerk/Treasurer is authorized and directed to include the amended Policy No. 805, Section 3.0, Section 4.0 and Section 5.3 in the City's Policies & Procedures Manual and distribute said policy to all departments, divisions and offices.

ATTR-Amend Policy No 805-P&P Manual

APR 19 2011

ADOPTED

Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED

4/25/11

Dan Devine, Mayor

1.0 PURPOSE:

To describe the limits within which the City of West Allis and the Office of the City Attorney may provide for legal representation of City officials and employees, including members of City boards and commissions, with respect to acts done in the course of their employment in which they are involved in their individual capacities. Representation in these matters is limited to federal and state civil actions and special proceedings, except as otherwise provided herein.

2.0 ORGANIZATIONS AFFECTED:

All City departments and City boards and commissions.

3.0 POLICY:

This statement of policy describes the limits within which the City and the Office of the City Attorney may provide for legal representation of City officers and employees with respect to matters arising out of their official duties. Representation in these matters is limited to federal and state civil actions and special proceedings.

4.0 REFERENCES:

Section 2.15, City of West Allis Revised Municipal Code.
Sections 62.09(12), 62.115, 893.80, and 895.46, Wisconsin Statutes.

5.0 PROCEDURES:

5.1 RESPONSIBILITY

5.1.1 The City Attorney is responsible for the implementation of this policy.

5.2 GENERAL POLICIES

5.2.1 The Office of the City Attorney will provide for representation of a City official or employee in any action or special proceeding, if the acts which constitute the subject of the action or proceeding reasonably appear to have been performed within the scope of employment, and such representation is not precluded under Paragraph 5.2.3 of this statement of policy.

- 5.2.2 When several officials or employees, otherwise entitled to representation by the Office of the City Attorney, have sufficiently conflicting interests, which in the view of the City Attorney preclude representation of each such official or employee, the City will pay reasonable Attorney fees and the costs of defense for each official or employee who is not provided representation by the Office of the City Attorney.
- 5.2.3 The City will not pay for legal representation, nor will the Office of the City Attorney provide for representation whenever:
- 1.) Defense of the official or employee would oppose positions maintained by the municipal government of the City.
 - 2.) Representation is sought in conjunction with a criminal proceeding or investigation in which an official or employee is the subject.
 - 3.) The act or acts with regard to which the official or employee requires representation do not reasonably appear to have been performed within the scope of employment within the municipal government of the City.
 - 4.) It is otherwise determined by the Common Council that it is not in the interests of the City to provide representation for the official or employee.
- 5.2.4 Once undertaken, provisions for representation under this policy statement will continue until either all appropriate proceedings, including applicable appellate procedures, have ended; provided that provisions for representation shall cease if at any time a basis for declining representation, as set forth in Paragraph 5.2.3, is found to exist.
- 5.2.5 When legal representation is not provided under this statement of policy, the City will reimburse an official or employee for reasonable Attorney's fees and costs of defense in any action or special proceeding as provided in Section 895.46 of the Wisconsin Statutes.
- 5.2.6 Failure of an official or employee to give immediate notice to the Office of the City Attorney of an action commenced against or subpoena issued to the official or employee, shall be a bar to the payment or reimbursement of reasonable Attorney's fees and costs of defending in an action or special proceeding. The City shall not pay Attorney's fees or costs in an action or special proceeding if the official or employee is offered representation by the Office of the City Attorney and such offer is refused.
- 5.2.7 Extraordinary situations may justify providing or refusing legal representation to an official or employee other than as provided in this policy statement, and nothing herein contained shall be construed to restrict the discretion of the Common Council in any such situations.
- 5.2.8 In proceedings before the Board of Police and Fire Commissioners involving a citizen complaint against a protective service employee as provided in Section 62.13, Wisconsin Statutes, the City will pay reasonable Attorney fees and costs of defending before the Board. Subsequent to a Board determination in any such proceeding, representation for a protective service employee shall be in accordance with this policy statement.
- 5.2.9 Nothing contained in this statement of policy, nor any action taken by the City of West Allis or by the Office of the City Attorney pursuant to this policy, shall be construed to impose any liability for damages or otherwise, upon the City or the Office of the City Attorney.

5.3 REPRESENTATION:

The representation provided for by the City Attorney may, at the discretion of the City or its insurance carrier, be provided by retained counsel selected pursuant to the provisions of the insurance contract.

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1.0 PURPOSE:

To describe the limits within which the City of West Allis and the Office of the City Attorney may provide for legal representation of City officials and employees, including members of City boards and commissions, with respect to acts done in the course of their employment in which they are involved in their individual capacities. Representation in these matters is limited to federal and state civil actions and special proceedings, except as otherwise provided herein.

2.0 ORGANIZATIONS AFFECTED:

All City departments and City boards and commissions.

3.0 POLICY:

This statement of policy describes the limits within which the City and the Office of the City Attorney may provide for legal representation of City officers and employees with respect to ~~employment related~~ matters arising out of their official duties in which they are involved in their individual capacities. Representation in these matters is limited to federal and state civil actions and special proceedings.

4.0 REFERENCES:

~~Administration & Finance Committee Resolution No. 19778.~~
Section 2.15, City of West Allis Revised Municipal Code.
Sections 62.09(12), 62.115, 893.80, and 895.46, Wisconsin Statutes.

5.0 PROCEDURES:

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5.1.1 The City Attorney is responsible for the implementation of this policy.

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5.2.1 The Office of the City Attorney will provide for representation of a City official or employee in any action or special proceeding, if the acts which constitute the subject of the action or proceeding reasonably appear to have been performed within the scope of employment, and such representation is not precluded under Paragraph 5.2.3 of this statement of policy.

- 5.2.2 When several officials or employees, otherwise entitled to representation by the Office of the City Attorney, have sufficiently conflicting interests, which in the view of the City Attorney preclude representation of each such official or employee, the City will pay reasonable Attorney fees and the costs of defense for each official or employee who is not provided representation by the Office of the City Attorney.
- 5.2.3 The City will not pay for legal representation, nor will the Office of the City Attorney provide for representation whenever:
- 1.) Defense of the official or employee would oppose positions maintained by the municipal government of the City.
 - 2.) Representation is sought in conjunction with a criminal proceeding or investigation in which an official or employee is the subject.
 - 3.) The act or acts with regard to which the official or employee requires representation do not reasonably appear to have been performed within the scope of employment within the municipal government of the City.
 - 4.) It is otherwise determined by the Common Council that it is not in the interests of the City to provide representation for the official or employee.
- 5.2.4 Once undertaken, provisions for representation under this policy statement will continue until either all appropriate proceedings, including applicable appellate procedures, have ended; provided that provisions for representation shall cease if at any time a basis for declining representation, as set forth in Paragraph 5.2.3, is found to exist.
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5.3 REPRESENTATION:

The representation provided for by the City Attorney may, at the discretion of the City or its insurance carrier, be provided by retained counsel selected pursuant to the provisions of the insurance contract.