

# *City of Brisbane*

## *Agenda Report*

**TO:** Honorable Mayor and City Council

**FROM:** Michael H. Roush, City Attorney

**DATE:** Meeting of September 3, 2015

**SUBJECT:** Policy Concerning Requests for Legal Services by Council Committees or Individual Council Members

**PURPOSE:** To consider whether to adopt a Policy concerning requests for legal services by Council Committees or individual Council Members.

**RECOMMENDATION:** Consider adoption of Resolution No. 2015-37 establishing a policy concerning requests for legal services by Council Committees or individual City Councilmembers.

### **BACKGROUND**

As part of the Council's budget process as well as the evaluation of the legal services provided to the City by the Renne Sloan law firm, Council indicated it would like to establish a policy by which Council committees or individual council members could request the City Attorney to provide a certain number of hours of legal services without needing authorization from the City Council itself. During the budget process, it appeared that consensus was reached that the number of hours for either a Committee request or an individual Council member request was five as to a specific legal issue. The matter, however, was referred to the Council Policy Committee (Members Miller and Lentz) for a recommendation. The Committee met on August 19, 2015 and recommends adoption of the attached resolution that adopts the subject Policy.

### **DISCUSSION**

The Committee indicated that for two reasons it was reasonable to allow individual Council members and Council committees to request legal services that did not exceed five hours for any one legal issue. First, as to individual Council member requests, the City Attorney and the Deputy City Attorney have received very few such requests and none of those have taken more than an hour to complete. Second, as to Committee requests, there have been relatively few items where the number of hours that were spent

on legal services exceeded five, e.g., issues concerning revisions to the City's smoking regulations and the City's solicitation ordinance. Accordingly, any one particular legal issue that the Committees has raised has been handled well within a five hour window.

In addition, when a Committees needs to meet on days when the City Attorney (or the member of the law firm that is staffing the Committee) is not in Brisbane, the Policy provides the attorney handling the matter will discuss with the Committee members whether his/her presence at the meeting is necessary or whether the attorney can simply be advised after the meeting if there are issues which require legal services. If the attorney's presence is required, then the time spent attending the meeting will count towards the five hour threshold.

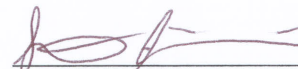
Finally, the Policy provides that requests for these services are to be directed to the City Attorney rather than to individual members of the law firm and that the number of requests per month is capped at three; additional requests would need the full Council approval. As to the former issue, the Committee felt that it was important for the City Attorney to decide how to allocate the work. As to this latter issue, the Committee was not concerned about any current members of the Council abusing the Policy but, because policies like these tend to be in place for a long time, the Committee believed capping such requests would prevent the potential for a Council member in the future from abusing the Policy.

#### **FISCAL IMPACT**

There is no direct fiscal impact by adopting this Policy. By adopting this Policy, however, when there is a legal issue that a Committee or an individual Council member wishes the City Attorney (or, through the City Attorney, another member of the law firm) to explore but which will likely take more than a few hours to complete, the City Council, as a whole, will have an opportunity to have a voice in that decision.



Michael Roush, City Attorney



Stuart Schillinger  
Acting City Manager

Attachment: Resolution No. 2015-37



## **RESOLUTION NO. 2015-37**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE ESTABLISHING A POLICY CONCERNING REQUESTS FOR LEGAL SERVICES BY COUNCIL COMMITTEES OR INDIVIDUAL CITY COUNCIL MEMBERS**

**WHEREAS**, the City of Brisbane contracts, and establishes a budget, for legal services to the City; and

**WHEREAS**, from time to time Council committees or individual Council members may request the City Attorney and, through the City Attorney, members of the law firm that provides legal services to the City, to conduct legal research or provide other legal services concerning City related issues; and

**WHEREAS**, the City Council desires that the cost of legal services provided to the City be within the amount that the City Council has budgeted for such services; and

**WHEREAS**, Council committees and individual Council members should be able to request the City Attorney to provide a certain number of hours of legal research on a particular legal issue without requesting express authority from the full City Council, consistent with the budget for such services; and

**WHEREAS**, the Council Policy Committee has considered this matter and recommends that a Council Committee or individual Council members should be able to request the City Attorney to provide up to five hours of legal research as to a particular legal issue without the need for express authorization from the full City Council.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRISBANE AS FOLLOWS:**

Section 1: A Council Committee or any individual Council member may request the City Attorney to conduct up to five hours of legal research as to any particular legal issue related to City business.

Section 2. If in the estimation of the Committee, the individual Council member or the City Attorney the number of hours required to satisfy the request will take more than five hours, the City Council itself will consider the request and make a determination whether such services should be provided.

Section 3. To the extent that a Committee meets on a day when the City Attorney (or the member of the law firm that is staffing the Committee) is not in Brisbane, the Committee members will discuss with the attorney whether the attorney's presence at the meeting is necessary or whether the Committee can advise the attorney after the meeting if legal services

are required. If the attorney's attendance at a meeting is necessary, the time spent will count toward the five hour threshold.

Section 4. An individual Council member or a Council Committee shall make no more than three requests in any month; the City Council must approve requests in excess of three per month.

Section 5. This resolution shall take effect immediately upon its adoption.

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Terry O'Connell, Mayor

I hereby certify that the foregoing Resolution No. 2015-37 was duly and regularly adopted at the regular meeting of the Brisbane City Council on September 3, 2015 by the following vote:

AYES:

NOES:

ABSENT:

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Sheri Marie Spediacci, City Clerk