



CITY OF WAUKESHA

Administration

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| Committee: None | Date: Click here to enter a date. |
| Common Council Item Number: ID #21-2602 | Date: 7/20/2021 |
| Submitted By: Brian Running | City Administrator Approval: Kevin Lahner, City Administrator KML |
| Finance Department Review: Bridget M. Souffrant, Finance Director BMS | City Attorney's Office Review: Brian Running, City Attorney BER |
| Subject: Waiver of conflict of interest requested by VonBriesen law firm. | |

Details:
 Attorney Kyle Gulya of the VonBriesen law firm has represented the City with respect to Police and Fire Union contract negotiations for a number of years. Mr. Gulya has a good working relationship with our chiefs and has done a good job for the City in contract negotiations. VonBriesen also has lawyers that pursue excessive-assessment lawsuits against cities, and their client, Froedtert Life Care Hospital, wants to file an excessive-assessment claim against Waukesha. Because both the City and Froedtert are VonBriesen clients, it creates a conflict of interest for the law firm. Law firms can't represent clients in lawsuits against other clients unless the clients agree to waive the conflict of interest. VonBriesen is now requesting that the City give that waiver so they can file a lawsuit against the City on behalf of Froedtert. From a purely practical point of view, the concern is that you don't want the law firm to use information they learn in their representation of you to your disadvantage and for the benefit of your opponent in the lawsuit. Clients have to weigh that risk in deciding whether to waive a conflict. In this particular case, we have to judge whether anything VonBriesen has learned about the City by representing the City in other matters, such as police and fire contract negotiations, would be used against the City in the excessive-assessment lawsuit. If that risk is very remote or non-existent, then a waiver of the conflict can be considered.

Options & Alternatives:
 There are two choices in response to the request, either agree to the waiver or decline. Declining will not prevent an excessive-assessment suit against the City, it will just mean that the VonBriesen firm can't be the firm bringing that lawsuit. Granting the waiver will mean that the VonBriesen firm will represent Froedtert in the lawsuit.

Financial Remarks:
 There is no financial impact to the City. Regardless of who represents the plaintiff, there is a risk that the City may eventually have some liability in the lawsuit, but that is not affected by this decision.



Executive Recommendation:

City Attorney's office has no recommendation one way or the other, however, we do not believe that Mr. Gulya's representation in fire and police contract negotiations would compromise the City in defending against an excessive-assessment claim brought by his firm.