

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: April 13, 2007

IBA Report Number: 07-43

City Council Docket Date: April 17, 2007

Item Number: S500

Subject: Request for Outside Legal Counsel to Resolve “Waterfall” Ordinance Issues

The second reading of a proposed ordinance to eliminate the “waterfall” provisions of the Municipal Code is scheduled for Tuesday, April 17, 2007. This ordinance was introduced on March 5, 2007, by the City Attorney and continued from April 10th to the 17th due to a number of questions that had been raised. Attached is a joint memo from Mayor Sanders and Council President Peters, dated April 5th, 2007, requesting further legal analysis of issues raised by several parties relative to the proposed ordinance.

Also attached is the response from the City Attorney dated April 9, 2007. Legal questions continue to be raised about the proposal. As mentioned in our March 1, 2007 report on this subject, our office strongly supports the elimination of the concept of Surplus Earnings and the Waterfall from the City’s Municipal Code. At the same time, it is important for the Council to be aware of any potential impacts of enacting the ordinance as proposed. As this is a technical area of the law, our office recommends the City Council retain outside legal counsel to work with the City Attorney to resolve outstanding issues, address any unforeseen ramifications associated with its enactment, and prepare alternative ordinance language as determined necessary. We anticipate that costs will not exceed \$10,000.

[SIGNED]

Andrea Tevlin
Independent Budget Analyst

Attachments