

**City of Long Beach***Working Together to Serve***Memorandum****Office of the City Attorney**

DATE: December 19, 2014

To: Economic Development & Finance Committee

FROM: Charles Parkin, City Attorney *CP*

SUBJECT: *Proposed Amendment to Long Beach Municipal Code § 3.48.010*

PROPOSED CHANGE

The City Attorney seeks to amend Long Beach Municipal Code § 3.48.010. The proposed change will increase the City Attorney's current settlement authority for Government Claims and litigation from \$5,000.00 to \$50,000.00.

BACKGROUND

Pursuant to the Long Beach City Charter, the City of Long Beach is self-insured for claims and litigation. The Charter designates the City Attorney as the sole and exclusive legal representative for the City. The Charter authorizes the City Attorney to settle or defend claims and litigation against the City, its officers, directors, elected officials and employees. At any given time, the Law Department handles approximately 150 litigated matters, in both state and federal court, oversees and manages cases handled by outside counsel, and investigates, rejects or resolves nearly 1000 Government Claims a year.

Since at least 1970, Long Beach Municipal Code § 3.48.010 has authorized the City Attorney to settle or compromise any claim or litigation, against the City or any officer, agent or employee thereof, without prior consent of the City Council, in an amount not to exceed five thousand dollars (\$5,000.00) as to any single person, firm or corporation.

To obtain authority to settle or compromise a claim or litigation in excess of five thousand dollars (\$5,000.00), the City Attorney may directly seek authority from the entire City Council in closed session, but more typically initially meets in closed session with the Economic Development & Finance Committee (ED&F). These meetings are held at various time, but typically once a month. By necessity, the cases brought to ED&F have been settled, with the settlement contingent upon City Council Approval.

Since 1970, the average cost a settling a claim or lawsuit has increased significantly. For example, based on the Consumer Price Index average for each year compiled by

the U.S. Bureau of Labor Statistics, \$5,000 in 1970 dollars is now valued over \$23,000. Thus, by 2014 standards, many fairly routine and modest claims or litigation matters vastly exceed the City Attorney's current level of settlement authority. Consequently, the majority of matters brought to ED&F are cases that involve probable liability, but are of relatively low exposure by reference to today's dollar value.

In our opinion, this results in an inefficient use of a Committee member's time and effort, and further substantially delays payment of meritorious claims by several weeks. This, in turn, frustrates constituents and others awaiting resolution of a claim or litigated matter.

The current authority level is also inconsistent with other, similarly situated municipal governments. The City of Los Angeles, for example, authorizes its City Attorney to settle or compromise claims and litigation up to \$50,000. Likewise, the City of San Diego authorizes its Director of Risk Management to settle claims up to \$25,000, and its Chief Financial Officer has authority up to \$50,000.

PROPOSED AMENDMENT TO SECTION 3.48.010

The amendment to Section 3.48.010 seeks to provide settlement authority for claims and litigation from \$5,000.00 to \$50,000.00 as follows:

3.48.010 City Attorney authority.

Except as set forth below, the City Attorney is authorized to settle or compromise any claim or litigation, against the City or any officer, agent or employee thereof, without prior consent of the City Council, in an amount not to exceed ~~five thousand dollars (\$5,000.00)~~ fifty thousand dollars (\$50,000) as to any single person, firm or corporation. With regard to workers' compensation claims, the City Attorney is authorized to settle or compromise any claim or litigation without the prior consent of the City Council in an amount not to exceed fifty thousand dollars (\$50,000.00) as to any single person, firm or corporation. The City Attorney is authorized to settle or compromise any claim of ~~five thousand dollars (\$5,000.00)~~ fifty thousand dollars (\$50,000) or less that the City has against other persons. The City Attorney is also authorized to execute and deliver to said other persons any instrument in writing necessary or advisable in connection with any settlement. Payment or settlement of all other claims shall be pursuant to authority granted by the City Council, and the City Attorney shall notify the City Council of any claims of ~~five thousand dollars (\$5,000.00)~~ fifty thousand dollars (\$50,000) or less which are paid or compromised pursuant to the authority provided in this Section.

We will be available to discuss or respond to any questions. Thank you for your consideration and attention to this matter.