



Roll Call Number

21-1916

Agenda Item Number

33

Date December 20, 2021

RETENTION OF OUTSIDE COUNSEL TO ACT AS A GUARDIAN AD LITEM

WHEREAS, the City of Des Moines has brought legal action against Kieffer Simmons seeking a Civil Infraction penalty fine and an injunction to prevent him from allowing a maintenance/repair, junk or salvage yard which are prohibited uses in N3c zoning district; allowing inoperable, unsafe, and/or unlicensed vehicles, vehicular component parts, and/or miscellaneous junk and debris to be stored outside; allowing a swimming pool that does not comply with the city's requirements for a pool barrier/fence; and allowing work to be done without permits at the property located at 2524 E. Walnut Street; and

WHEREAS, Kieffer Simmons currently is incarcerated for matters unrelated to the City's enforcement action; and

WHEREAS, the Iowa Rules of Civil Procedure require that an incarcerated person facing a default judgment must be provided with a guardian ad litem ("GAL") to allow an active voice in the civil process; and

WHEREAS, while a GAL does not act as an attorney, an attorney generally acts in the capacity of GAL to explain the legal process; and

WHEREAS, in practice, a GAL is compensated by the party who brings the action against the person for whom a GAL is required, which in this case is the City of Des Moines; and

WHEREAS, it would be in the best interest of the City to obtain outside counsel to act in the capacity of a GAL in this matter; and

WHEREAS, Attorney Christopher B. Rottler, who has prior experience as a GAL, has agreed to act in such capacity.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

1. That Christopher B. Rottler, Community Lawyers of Iowa, PLC; 601 Hickman Road; Des Moines, IA 50314, be and is retained by the City of Des Moines for the purpose of acting as a guardian ad litem for Kieffer Simmons who is incarcerated. Such retention is at the rate of \$125.00 per hour plus reasonable expenses. The guardian ad litem/attorney is to provide detailed billing for such services and payment for such services may be periodic; and



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- 2. That the City Attorney is authorized and directed to pay all related future invoices from Community Lawyers of Iowa, PC as they become due and report such payments to the City Council on a quarterly basis.

MOVED BY Boesen TO ADOPT

Form approved:

/s/ Megan Norberg
 Megan Norberg
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

CERTIFICATE

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

J. M. Franklin Cownie Mayor

P. Kay Cmelik City Clerk