



	Approved	Denied
Date Action Taken:	12/11/06	
Other: Amended action.		
Verified by: <i>Tom Klinkner</i>		

**WASILLA CITY COUNCIL ACTION MEMORANDUM**

**AM No. 06-64(AM)**

**TITLE: TO AUTHORIZE INDIVIDUAL COUNCIL MEMBERS ONE HOUR EACH MONTH OF ATTORNEY SERVICES TO DISCUSS CITY RELATED ISSUES.**

Agenda of: December 11, 2006

Date: December 12, 2006

Originator: Deputy Clerk for Council Member Menard

Route to:	Department	Signature/Date
X	Finance, Risk Management & MIS Director Purchasing	
X	Deputy Administrator Planning, Economic Development, Human Resources	
X	City Clerk	

**REVIEWED BY MAYOR DIANNE M. KELLER:** *Dianne M. Keller*

**FISCAL IMPACT:**  yes\$ \_\_\_\_\_ or  no Funds Available  yes  no

Account name/number: Legislation Council/Legal Services 001.4115.411.30-32

Attachments: *memo from Tom Klinkner dated 11/30/06.*

**SUMMARY STATEMENT:** Currently council members are not authorized to contact the city attorney directly. Council Member Menard is purposing to allow individual council members the authority to utilize city attorney services for city business only, for a maximum time of one hour each month, without approval of the council as a whole.

This does not give the council authority to direct the attorney to work on projects or conduct research without approval of the entire body. The intent is to allow council members an avenue for brief discussions with the attorney on an individual basis.

**ACTION:** To authorize individual council members one hour each month of attorney services to discuss city related issues without approval of the entire body. Council members utilizing the services of the city attorney shall notify the clerk prior to the next scheduled council meeting. The notification and the nature of the consultation shall be included in the next clerk's report to the council to include the name of the council member and the time spent.

## MEMORANDUM

**TO:** Members of the City Council

**FROM:** Tom Klinkner

**DATE:** November 30, 2006

**RE:** Attorney Consultations with Individual Council Members, AM No. 06-64

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The opportunity for individual Council members to consult with the City Attorney, if used judiciously, can assist Council members in the informed performance of their duties. This practice will be most beneficial where a Council member requires advice of a general nature on legal principles that apply to performing duties as a Council member.

However, Council members consulting individually with the City Attorney must understand clearly that the City Attorney represents the City as a corporate entity, and does not represent City officials in any individual capacity. This has at least two important implications for individual Council members consulting with the City Attorney.

- First, a consultation between an individual Council member and the City Attorney will not be confidential—the substance of the consultation is subject to disclosure to other City officials as required by the City Attorney’s professional responsibility to his client, the City. For example, if a consultation with an individual Council member reveals that the Council member would have a conflict of interest in voting on a matter before the Council, the City Attorney may be obligated to disclose the conflict to the Council if the Council member does not do so.
- Second, the City Attorney cannot provide advice to an individual Council member in support of an interest that is adverse to the City. For example, the City Attorney could not advise a Council member, who requests the advice on behalf of a constituent, whether the constituent has a viable legal claim against the City—the constituent must seek the advice of his own attorney on the issue.

If the City Attorney is consulted by an individual Council member on a matter that is in controversy among Council members or between the Council and the Administration, any advice that is given should be provided in writing to all City officials who are interested in the matter, to avoid any appearance of favoritism to one side of the issue or the other. A good example is the issue that arose two or three years ago concerning whether a Council member continued to meet the residence requirement for Council membership.

I anticipate that if the Council approves AM 06-64, all Council members will use good judgment and discretion in their individual consultations with the City Attorney, and that none of the issues discussed above actually will arise. I mention them only because they have arisen in the past when I have represented other municipal clients.