

COUNCIL POLICY 2-3

INITIATION OF CIVIL SUITS AND OTHER LEGAL PROCEEDINGS

DISTRIBUTION: Mayor and City Council
All Departments

SUBJECT: Initiation of civil suits and other legal proceedings

PURPOSE: To establish a policy on initiation of civil suits in the name of the City and delegating certain authority in the prosecution and defense of civil suits and other legal proceedings.

BACKGROUND: The City of Muskogee is involved in civil suits and other legal proceedings on a recurring basis. These proceedings may have a significant impact on the City, financially and otherwise. A Council Policy is necessary to insure proper and timely action on the initiation or defense of legal proceedings.

POLICY/ PROCEDURES:

1. Prior to the initiation of any civil suit, appeal, petition for review of an appellate court's decision, or proceeding before any administrative boards or agencies in the name of the City or any of its Boards and Commissions, prior approval shall be obtained from the City Council either by minute action or by resolution. The City Attorney is authorized to initiate an action in the District Court of Muskogee County without prior Council approval for the collection of money owed to the City in an amount not to exceed \$2,000.00. The Council shall be advised of the suit and the circumstances by memorandum or as soon as practicable.
2. Appeals, in the event that time is of the essence and that an appeal, petition for review, or administrative proceeding must be timely filed before a regular or special council meeting can be convened, the City Manager may authorize the filing of an appeal, petition for review, or administrative proceeding, subject to further ratification by the City Council.
3. Once a civil suit, appeal, petition for review, or administrative proceeding is filed in the name of the City, the City Attorney shall vigorously prosecute said actions consistent with the rules of civil procedures, applicable court rules, or applicable administrative rules of proceedings.
4. The City Attorney is authorized, without further action of the Council, to vigorously defend all civil actions initiated by other parties against the City, its agencies and employees who are alleged to have acted in their official capacities. It shall be the duty of the City Attorney to keep the Council apprised of the progress of the action, as well as, any judicial determination that effects the action. Once a suit is concluded, the City Attorney shall pursue post trial actions for the benefit of the City including the recovery of costs and legal expenses as authorized by law. In the event the initial amount owed to the City or the costs incurred by the City in the

prosecution or defense of the action are less than \$500.00, the City Attorney is authorized to waive such collection in which event the Council and all effected departments shall be notified of this determination.

5. The City, by the City Attorney, or counsel employed for such purpose, shall not defend civil or criminal actions initiated against individual Council members acting outside their official capacity or employees of the City who have acted beyond their scope of employment. The determination as to whether an employee has acted outside his or her scope of employment or Council member has acted outside of his or her official capacity shall be made by the City Attorney.


6. The City Attorney's Office is assigned the responsibility for implementing this policy and all other departments which might be affected by actions of this nature coordinate and refer such action to the Office of the City Attorney.

REFERENCES: None.

EFFECTIVE DATE/

RESCISSION: This policy shall become effective February 23, 2009.

RESPONSIBLE
DEPARTMENT: Legal




John Tyler Hammons
MAYOR


Attest:


Pam Bush, City Clerk
(seal)

Approved as to form and legality this 11th day of February, 2009.



JOHN H. VINCENT, CITY ATTORNEY