

## Draft Questions Legal Opinion on City Council's Use of Outside Counsel

September 14, 2020

1. Can a City Council in the council-mayor form of government have their own legal counsel separate from the City Attorney?
2. What are the legal limitations, if any, on the services the outside counsel can render to the City Council?
3. If there are no legal limitations, what is the legal relationship between the outside counsel and the body of the City Council? For example:
  - a. Who is the client?
  - b. What is the process for requesting services from outside counsel?
  - c. What is the responsibility for outside counsel to communicate work product with individual Council Members versus the body?
4. If there are no legal limitations, can the Council impose its own restraints on use of outside counsel?
5. If there is a split in the Council and the majority is opting to take the advice of outside counsel, what happens? Can the minority retain their own legal counsel and who funds it?
6. Are there any policies, procedures, administrative processes, or best practices from a legal perspective that would aid the Council in addressing these questions?
7. When is the attorney-client privilege between outside counsel and the City Council waived, if ever? And what are the legal consequences if an individual City Council member inappropriately discloses privileged information?
8. If the Council has independent Council, does doing so in any way diminish the legal and/or ethical obligations of the city attorney?