

RESOLUTION 2008-23
AUTHORIZING FILING AND/OR
PARTICIPATION IN LEGAL ACTION
SEEKING A DECLARATION OF RIGHTS, STATUS, AND OTHER
LEGAL RELATIONS REGARDING THE MID-MORAINÉ MUNICIPAL COURT

WHEREAS, the City of Cedarburg (“Municipality”) is a member of the Mid-Moraine Municipal Court (“Court”); and

WHEREAS, the Municipality has entered into an agreement with the other members of the Court which, among other provisions, requires all forfeitures, fees, penalty assessments, domestic abuse assessments and costs paid to the Court under a judgment before the Municipal Judge to be paid to the respective Municipality’s Treasurer; and

WHEREAS, the Municipality has duly adopted an ordinance to create a higher service fee pursuant to the provisions of Wis. Stat., § 814.705; and

WHEREAS, issues have arisen over the Municipality’s and the Court’s right to collect or recover various fees and costs, including (a) fees for issuing or serving a warrant or commitment order pursuant to Wis. Stats., §§ 814.65, 814.70, 814.705, and 814.71, and (b) the recovery of fees arising out of the withdrawal of blood for the purpose of determining the presence or quantity of alcohol, controlled substances, controlled substance analogs or other drugs, pursuant to the lawful request of a law enforcement officer; and

WHEREAS, issues have also arisen regarding whether citations issued by the Municipality through the Court must be personally served on a defendant before a default judgment may be entered against the named defendant; and

WHEREAS, the Municipality hereby declares that both the public interest and the effective administration of the Court are adversely affected by the uncertainty relating to the above issues;

RESOLVED, that the Municipality is hereby authorized to file a declaratory judgment action pursuant to the Uniform Declaratory Judgments Act set forth in Wis. Stat., § 806.04, together with such other statutory or common law cause of action deemed necessary or appropriate by the Municipality’s legal counsel; and

FURTHER RESOLVED, that this authorizing resolution is intended to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations and, therefore, is to be liberally construed and administered; and

FURTHER RESOLVED, that the Municipality understands and agrees that its financial obligation for its participation in the legal action under this authorizing resolution shall be determined according to the Municipality’s proportionate percentage of citations in the Court.

Passed and adopted this 24th day of November, 2008.

City of Cedarburg

Gregory P. Myers, Mayor

Attest:

Constance K. McHugh, City Clerk

Approved as to form:

Kaye K. Vance, City Attorney