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**HEADLINE:** Council, in separate move, hires attorney for possible proceedings;  
City seeks to derail bankruptcy

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**BODY:**

Attorneys for the city of Lawrence are asking a U.S. Bankruptcy Court judge to either dismiss or abstain from presiding over its waterworks operator's recently-filed Chapter 11 reorganization.

They say Lawrence Utilities' bankruptcy filing is an abuse of process to avoid state court litigation -- in which the mayor is trying to wrestle away control of the utility.

"(Lawrence Utilities) is not in any genuine financial distress," states the motion. "(Their) filings demonstrate that it has abundant cash flow to continue operations, with well over \$1.5 million dollars in cash and operating income of almost \$40,000 per day."

A hearing is scheduled for Wednesday in U.S. Bankruptcy Court in Indianapolis.

Meanwhile, last Wednesday, the City Council took no public action on a proposed settlement that would call for a payment of nearly \$15 million from the city to the owners of Lawrence Utilities LLC in exchange for them relinquishing control of the waterworks operation.

Instead, the council moved to begin taking part in the bankruptcy proceedings.

In a short meeting, the council voted 8-0 to authorize council President Paul Whitehead and Vice President Linda Treat to hire bankruptcy counsel.

"The common council . . . is concerned for and motivated by the risk and uncertainty of the pending processes and litigation for the dependability and viability of the . . . water and sewer utilities and their services," states a portion of the resolution.

The City Council action came two weeks after Lawrence Utilities filed for Chapter 11 reorganization to, in its words, "ensure continued operation of the city's water

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and sewer utilities, and expedite the resolution of legal grievances with the city of Lawrence."

Grievances stem from Mayor Deborah Cantwell's administration's lawsuit in Marion County Superior Court to break the city's contract with the utility.

"We are going to ask the court to decide the motion for abstention . . . first before deciding any other issues that would be pure bankruptcy issues," said James J. Ammeen, Jr., a bankruptcy attorney working with city administrators.

As for the council's decision to seek its own legal representation, Ammeen said, "It raises constitutional issues regarding the separations of powers between the branches of government. The relationship between the (council) and the (mayor) is already very strained. That might be the understatement of the year."

Cantwell said she expects to know later what action she will take regarding the resolution. She could refuse to sign it.

Council members want to ensure that the city continues to receive about \$3 million in annual payments that Lawrence Utilities makes for the privilege of operating the utilities, said Whitehead.

"We don't want the court to all of a sudden stop that . . . payment from coming through," said Whitehead, who added that questions have been raised in the bankruptcy court about City Council representation.

City of Lawrence corporation counsel Stan Hirsch, who attended Wednesday's council meeting, raised other concerns.

"How inappropriate was it that they didn't allow any public discussion?" he questioned. "They (first) met in executive session. Who knows what they were told. They came out and took a vote that I believe was improper without anybody being allowed to address them."

Along with the legal wrestling, there also are still ongoing efforts to settle the dispute.

Wednesday, the council did not address a litigation settlement offer described in a letter sent to their attorneys. Afterward, Whitehead said he thinks there may be "a couple of offers that we haven't looked at, but the council will eventually probably look at that."

Call Star reporter Cathy Kightlinger at (317) 444-5534.

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