



REPORT TO Village Board

ITEM NAME:	Review, clarification, and possible revision of Village Policy GEN-001
MEETING DATE:	Sept 25, 2023
PRESENTING COMMITTEE:	Trustees Charneski, Dumais, Shaw
COMMITTEE CONTACT:	
STAFF CONTACT:	
PREPARED BY:	Ken Charneski

ISSUE: Excessive expenditures and Disregard for Village Policy GEN-001

OBJECTIVES: Get Explanation from the current Village Administrator, Amend the policy to close exploited loopholes

ISSUE BACKGROUND/PREVIOUS ACTIONS:

The reason for this item is that legal consultant expenditures have exceeded the budget amount for the legal services line item by about \$8000 as of Sept 1. Preventing this overspending is exactly what the Village Board wrote, discussed, and voted to approve GEN-001.

The annual budget for general legal was under \$10,000 for years until 2022 when there was an uptick in legal expenses and amendments were made. The 2023 budget provided \$25,000 for this line item to make sure there were plenty of funds there. Current expenditures exceed even that amount by 30%. A single month exceeds what was budgeted for the entire year just 2-3 years ago.

Procedure

GEN-001 Procedure states:

“3. In the case of the use of Village legal advisors, the Village Administrator or Village President may authorize in written form, specific Department Heads or Village Trustees to contact the Attorney representing the Village on a specific matter. Contact with Village legal advisors by employees, elected officials or Committee/Commission/Authority members is prohibited unless advanced authorization is received from the Village Administrator, Village President, or responsible Department Head. The Village Administrator shall monitor the cost of legal advisors and provide notice of potential or actual cost overruns to the Village Board in order to control costs while receiving necessary services.”

The intent of the phrase

“the Village Administrator or Village President may authorize in written form, specific Department Heads or Village Trustees to contact the Attorney representing the Village on a specific matter.”

was to allow those two officials to extend permission to others (“may authorize”) to contact the attorney, *but only in writing*. There is no provision in the policy for granting verbal authorization.

The current Village Administrator on the other hand, has apparently construed this paragraph otherwise. She has stated “there are no requirements in GEN-001 that states any authorization has to be in writing from the Administrator.”

GEN-001 should have minor amendments as shown in “Recommended Action” below.

The Village Administrator has **authority and responsibilities** as defined by GEN-001, and other policies, and State Statutes respecting budget limits in general.

The Village Administrator's stated duty is to

“monitor the cost of legal advisors and provide notice of potential or actual cost overruns to the Village Board in order to control costs while receiving necessary services.”

The intent here is to notify the Board **before** the overrun takes place. This intent is made even more clear in the context of the Purpose of GEN-001, which states in part

*“In order to control costs when using outside consultants, the Village Administrator shall monitor all consultants’ work, be responsible for approving their bills, and **shall have the responsibility for managing their budgets.**”*

This apparently has not been done. As noted above, there are currently expenses incurred of about \$8000 beyond the budget limit of line item 100-51300-302-000 for general legal services. Certainly much more so by the end of September.

We will need an explanation as to how an administrator feels she can authorize such excessive expenditures without first getting Village Board approval.

Incurring unauthorized expenses first, then coming to the Board looking for a Budget Amendment, negates the whole purpose of a Municipal Budget. This seems to me to be the tail wagging the dog by the Administrator exerting leverage on the Board to approve overspending. I don't believe that this was the intent of State Statute 65.90 (5).

Contract with the Taxpayers

State Statutes have a purpose in why they require a defined, regulated procedure for creating a municipal budget. The taxpayers have a right in knowing how their money is going to be spent, and the municipality has an obligation to adhere to it.

The Annual Budget is a form of contract with the taxpayers, and there is an intent and process created by law to amend that contract and reallocate funds, which is called a Budget Amendment.

The concept of trust in the government to use the money as agreed, cannot logically or ethically be usurped by one person in the position of administrator, going on a spending spree in complete disregard for budget limits. Such conduct, if approved by the Board, simply makes the elected representatives of the people an accomplice to the betrayal of trust, and does nothing to control such behavior in the future.

GEN-001 is intended to help prevent this situation from ever happening by notifying the Board of a potential shortfall **before it happens**, and then letting the elected officials decide if more money is needed, or to cut the spending on that line item. This is a very simple concept, but in this case it has not been done, and for all practical purposes, the choice has been taken away from the elected body.

Secrecy

Another breach of trust is the secrecy surrounding the attorney invoices. The current Village Administrator has taken the position that even as trustees, we are not allowed to have copies of these public documents. My own Public Information Request for these has been denied. The excuse for this secrecy has been stated by the Administrator as “attorney-client privilege”.

We need an explanation as to how the Administrator claims authority to refuse access to these documents to the public, let alone to elected officials.

GEN-001 states -

*“6. In all cases, it is recognized by the Village Board that the Village of Kronenwetter is the client/beneficiary of all taxpayer funded consultant services. As such, **any and all elected officials are representatives of that client. All information obtained from any consultant current or past shall be made readily, completely, and promptly available to any elected official requesting it.***

7. No information shall be denied without a documented legal reason for doing so, and confidential information shall be clearly identified as such along with the reason for that restricted status.”

We have the elected officials identified as the “client”.

The generic “attorney-client privilege” just doesn't fly. Once again we have the Village Administrator's known, ministerial duty to provide information, but she has refused to do so.

Nothing in item 7 there has been provided to justify these actions.

PROPOSAL: Identify the cause and responsibility for this overspending, and clarify the rights and standing of the Board Members and the Public regarding open records. Clarify procedure for staff access to consultants.

ADVANTAGES: Abide by Village Policy, control costs, help restore public trust

DISADVANTAGES: none

ITEMIZE ALL ANTICIPATED COSTS (Direct or Indirect, Start-Up/One-Time, Capital, Ongoing & Annual, Debt Service, etc.)

RECOMMENDED ACTION: This exploited loophole should be closed by amending the policy GEN-001, Procedure #3 to read (suggested additions in red):

*“In the case of the use of Village legal advisors, the Village Administrator or Village President may authorize in written form **only**, specific Department Heads or Village Trustees to contact the Attorney representing the Village, **and only** on a specific matter. **Verbal permission is not sufficient.***

and

*“The Village Administrator shall monitor the cost of legal advisors and provide notice of potential or actual cost overruns to the Village Board **ahead of time** in order to control costs while receiving necessary services.”*

OTHER OPTIONS CONSIDERED:

TIMING REQUIREMENTS/CONSTRAINTS: approve ASAP

FUNDING SOURCE(s) – Must include Account Number/Description/Budgeted Amt CFY/% Used CFY/\$

Remaining CFY

Account Number:

Description:

Budgeted Amount:

Spent to Date:

Percentage Used:

Remaining:

ATTACHMENTS (describe briefly):