



Legislation Details (With Text)

File #: 16-1356 **Version:** 1 **Name:**
Type: Resolution **Status:** Adopted
File created: 8/17/2016 **In control:** Law
On agenda: 10/19/2016 **Final action:** 10/19/2016
Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Settlement of Civil Litigation
Docket No.: 2:10-CV-03254
Claimants: James Kneipp, Joseph Martin, Kenneth Brown, William Tartis, Antonio Gonzalez, Donna Sapienza and Michael Lalley
Claimant's Attorney: The Law Offices of Niedweske Barber Hager
Attorney's Address: 98 Washington Street, Morristown, New Jersey 07960
Settlement Amount: \$660,600.00
Funding Source: Insurance Fund Trust
Additional Comments: \$225,000.00 to Plaintiffs and \$435,600.00 to Plaintiffs' counsel for Court awarded attorneys' fees and taxed costs.
Invitation: Corporation Counsel, October 18, 2016
Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
10/19/2016	1	Municipal Council	Adopt	Pass

Dept/ Agency: Law

Action: () Ratifying (X) Authorizing () Amending

Purpose: Settlement of Civil Litigation

Docket No.: 2:10-CV-03254

Claimants: James Kneipp, Joseph Martin, Kenneth Brown, William Tartis, Antonio Gonzalez, Donna Sapienza and Michael Lalley

Claimant's Attorney: The Law Offices of Niedweske Barber Hager

Attorney's Address: 98 Washington Street, Morristown, New Jersey 07960

Settlement Amount: \$660,600.00

Funding Source: Insurance Fund Trust

Additional Comments: \$225,000.00 to Plaintiffs and \$435,600.00 to Plaintiffs' counsel for Court awarded attorneys' fees and taxed costs.

Invitation: Corporation Counsel, October 18, 2016

WHEREAS, on or about July 26, 2010 Plaintiffs, James Kneipp, Joseph Martin, Kenneth Brown, William Tartis, Antonio Gonzalez, Donna Sapienza and Michael Lalley (collectively "Plaintiffs") instituted a suit in the United States Court for the District of New Jersey captioned James Kneipp, Joseph Martin, Kenneth Brown, William Tartis, Antonio Gonzalez, Donna Sapienza and Michael Lalley v. City of Newark, Docket No. 2:10-CV-03254; and

WHEREAS, at all times relevant to this action, the City of Newark Police Department

employed Plaintiffs as Police and Canine Officers (“Canine Unit”) during the period of time from February 1997 to on or about July 1, 2010; and

WHEREAS, the Canine Unit’s dogs lived with the Plaintiffs; Plaintiffs were involved in the training and care of these dogs while assigned to the Canine Unit; and

WHEREAS, on or about July 1, 2010, the City eliminated the Canine Unit; and

WHEREAS, Plaintiffs contend that the City violated the Fair Labor and Standards Act (FLSA), 29 U.S.C. § 201, et seq., as they were entitled to overtime for their care of these dogs; Plaintiffs further contend that the City violated the anti-retaliation provision of the FLSA by eliminating the Canine Unit; and

WHEREAS, the Parties have determined that it is in their mutual best interests to enter into an Agreement to amicably resolve all issues disputed in the lawsuit; and

WHEREAS, a proposal has been made to resolve this litigation, in its entirety, by payment to the Plaintiffs in the total amount of Two Hundred Twenty-Five Thousand Dollars and Zero Cents (\$225,000.00) (“Settlement Sum”); and

WHEREAS, the Corporation Counsel based upon all facts and circumstances presented, deems it in the best interest of the City of Newark to resolve said matter by payment of the proposed Settlement Sum; and

WHEREAS, pursuant to the terms of the Settlement Agreement, the Parties have agreed to a cap on attorneys’ fees, for the more than five years that this matter has been pending, of \$425,000.00, but left the award to the Court’s discretion and determination; and

WHEREAS, on or about July 21, 2016 the Court awarded the following to be paid to Plaintiffs in accordance with the Settlement Agreement: (1) attorneys’ fees in the amount of \$425,000.00 and (2) taxed costs of \$10,600.00; and

WHEREAS, the Director of the Department of Finance has certified that there are adequate, legally appropriated funds available to pay the Settlement Sum and the Court ordered attorneys’ fees and taxed costs.

NOW, THEREFORE, BE IT RESOLVED BY MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

1. The Corporation Counsel is hereby authorized on behalf of the City of Newark to execute and accept the terms of the Settlement Agreement and Release, Attached hereto.
2. Upon receipt by the Corporation Counsel of all documents deemed necessary, the Director of Finance is hereby authorized and directed to issue the following payments: (1) a check made payable to “The Law Offices of Niedweske Barber Hager as counsel for Plaintiffs James Kneipp, Joseph Martin, Kenneth Brown, William Tartis, Antonio Gonzalez, Donna Sapienza and Michael Lalley” in the amount of Two Hundred Twenty-Five Thousand Dollars and Zero Cents (\$225,000.00); and (2) a check made payable to

The Law Offices of Niedweske Barber Hager for Four Hundred Thirty-Five Thousand Six Hundred Dollars and Zero Cents (\$435,600.00) as payment of Court awarded attorneys' fees (\$425,000.00) and taxed costs (\$10,600.00). Both payments shall be mailed to The Law Offices of Niedweske Barber Hager, 98 Washington Street, Morristown, New Jersey 07960.

3. Annexed hereto is the Certification of Funds issued by the Director of Finance, City of Newark, which states that there are available sufficient legally, appropriate funds from Business Unit NW025, Dept. 25T, Div./Project 7T25 and Account# 96340, in the combined, total amount of Six Hundred Sixty Thousand, Six Hundred Dollars and Zero Cents (\$660,600.00).
4. The Corporation Counsel shall file a copy of the Comptroller's Certification and this resolution in the Office of the City Clerk.
5. The Corporation Counsel shall file a fully executed copy of the Settlement Agreement and Release in the Office of the City Clerk.
6. This resolution shall be effective upon adoption in accordance with applicable State Law.

STATEMENT

This Resolution authorizes the Corporation Counsel, on behalf of the City of Newark, to enter into a Settlement Agreement and Release to settle civil litigation captioned James Kneipp, Joseph Martin, Kenneth Brown, William Tartis, Antonio Gonzalez, Donna Sapienza and Michael Lalley v. City of Newark, Docket No. 2:10-CV-03254, by payment to the Plaintiffs in the amount of \$225,000.00 and, in accordance with the Settlement Agreement and Court Order, attorneys' fees in the amount of \$425,000.00 and taxed costs of \$10,600.00. In exchange, Plaintiffs' provide a complete dismissal and release of any and all claims against Mayor Ras J. Baraka, the City of Newark, its employees, agents and representatives.