



Legislation Details (With Text)

File #: 16-1494 **Version:** 1 **Name:**
Type: Resolution **Status:** Adopted
File created: 9/23/2016 **In control:** Law
On agenda: 11/2/2016 **Final action:** 11/2/2016

Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Settlement of Civil Litigation
Docket No.: ESX-L-958-13
Claimants: Sean Gaven, Rory Murphy, Cesar Soares, Christopher Brown, Celso Velez, Matthew Ruane, Lee Douglas, III, and Marlin Easter
Claimants' Attorney: The Toscano Law Firm and The Law Offices of John McGovern
Attorney's Addresses: The Toscano Law Firm, 80 Bloomfield Avenue, # 101, Caldwell, New Jersey 07006; The Law Offices of John McGovern: 45 Bleeker Street, Newark, New Jersey 07102
Settlement Amount: \$42,000.00
Funding Source: Insurance Fund Trust
Additional Comments:
This proposed settlement resolves two (2) matters, consolidated by the Court, with two (2) sets of Plaintiffs, and results in the payment of \$27,000.00 and \$15,000.00, to each group of Plaintiffs, respectively. The settlements require the approval of the Civil Service Commission to revive a promotional list to promote officers to the rank of Lieutenant.
Invitation: Corporation Counsel, November 1, 2016

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
11/2/2016	1	Municipal Council	Adopt	Pass

Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Settlement of Civil Litigation
Docket No.: ESX-L-958-13
Claimants: Sean Gaven, Rory Murphy, Cesar Soares, Christopher Brown, Celso Velez, Matthew Ruane, Lee Douglas, III, and Marlin Easter
Claimants' Attorney: The Toscano Law Firm and The Law Offices of John McGovern
Attorney's Addresses: The Toscano Law Firm, 80 Bloomfield Avenue, # 101, Caldwell, New Jersey 07006; The Law Offices of John McGovern: 45 Bleeker Street, Newark, New Jersey 07102
Settlement Amount: \$42,000.00
Funding Source: Insurance Fund Trust
Additional Comments:
This proposed settlement resolves two (2) matters, consolidated by the Court, with two (2) sets of Plaintiffs, and results in the payment of \$27,000.00 and \$15,000.00, to each group of Plaintiffs, respectively. The settlements require the approval of the Civil Service Commission to revive a promotional list to promote officers to the rank of Lieutenant.
Invitation: Corporation Counsel, November 1, 2016

WHEREAS, Plaintiffs Sean Gaven, Rory Murphy, Cesar Soares, Christopher Brown and Celso Velez instituted a suit in Essex County Superior Court captioned Sean Gaven, Rory Murphy, Cesar Soares, Christopher Brown and Celso Velez v. City of Newark. (“Gaven Plaintiffs”) seeking, among other things, promotion to the rank of Lieutenant in the Public Safety Department, Police Division; and

WHEREAS, Plaintiffs Matthew Ruane, Lee Douglas, III, and Marlin Easter instituted a suit in Essex County Superior Court captioned Matthew Ruane, Lee Douglas, III, and Marlin Easter v. City of Newark (“Ruane Plaintiffs”) seeking, among other things, promotion to the rank of Lieutenant in the Public Safety Department, Police Division; and

WHEREAS, the Superior Court consolidated both matters Sean Gaven, Rory Murphy, Cesar Soares, Christopher Brown and Celso Velez v. City of Newark and Matthew Ruane, Lee Douglas, III, and Marlin Easter v. City of Newark under one docket number, Docket No. ESX-L-958-13; and

WHEREAS, a settlement proposal has been made, in the form of a Settlement Agreement and Release (“Agreement”) to resolve this consolidated litigation in its entirety by payments as follows: Twenty-Seven Thousand Dollars and Zero Cents (\$27,000.00) to the Gaven Plaintiffs and Fifteen Thousand Dollars and Zero Cents (\$15,000.00) to the Ruane Plaintiffs for a combined total settlement amount of Forty Two Thousand Dollars and Zero Cents (\$42,000.00) (“Settlement Sum”); and

WHEREAS, as part of the Agreement with the Gaven and Ruane Plaintiffs, once the Agreement is approved by the Newark Municipal Council, the Agreement will not become binding upon the Parties until: the Civil Service Commission, and any other necessary State agency including the New Jersey Department of Community Affairs, approves the Agreement; the Civil Service Commission agrees to revive a promotional list and allows the City to promote from that list, in rank order, through at least Plaintiff Marlin Easter, and;

WHEREAS, the Corporation Counsel based upon all facts and circumstances presented, deems it is in the best interest of the City of Newark to resolve this consolidated litigation by payment of the proposed Settlement Sum.

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 Agreements 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 payment, as follows: Twenty-Seven Thousand Dollars and Zero Cents (\$27,000.00) made payable to “The Toscano Law Firm as attorneys for Plaintiffs” (“Gaven Plaintiffs’ Payment”) which payment will be mailed to The Toscano Law Firm, 80 Bloomfield Ave # 101, Caldwell, New Jersey 07006, and; Fifteen Thousand Dollars and Zero Cents (\$15,000.00) made payable to “The Law Offices of John McGovern and Plaintiffs” (“Ruane Plaintiffs’ Payment”) which payment will be mailed to The Law Offices of John McGovern, 45 Bleeker Street, Newark, New Jersey 07102, for a combined amount of Forty-Two

Thousand Dollars and Zero Cents (\$42,000.00); and

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 amount of Forty Two Thousand Dollars and Zero Cents (\$42,000.00) for the purpose set forth herein.
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 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 consolidated civil litigation captioned Sean Gaven, Rory Murphy, Cesar Soares, Christopher Brown and Celso Velez v. City of Newark and Matthew Ruane, Lee Douglas, III, and Marlin Easter v. City of Newark, Docket No. ESX-L-958-13, in the combined amount of Forty Two Thousand Dollars and Zero Cents (\$42,000.00), in exchange for Plaintiffs' dismissal of any and all claims against the City of Newark and its employees, and a complete release.