



Legislation Details (With Text)

File #: 20-0748 **Version:** 1 **Name:** Worker's Compensation - James Graves
Type: Resolution **Status:** Adopted
File created: 6/23/2020 **In control:** Law
On agenda: 3/3/2021 **Final action:** 3/3/2021

Title: Dept./ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Settlement of Workers' Compensation
C.P. No.: 2017-5432
Claimant: James Graves
Claimant's Attorney: Frank S. Salzer, Esq.
Settlement Amount: \$235,090.00
Funding Source: Insurance Trust Fund
Additional Comments:

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
3/3/2021	1	Municipal Council	Adopt	Pass

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WHEREAS, the Petitioner, James Graves instituted suit in the Division of Workers' Compensation of New Jersey, Ocean County, bearing C.P. #2017-5432 against the City of Newark seeking workers' compensation benefits, as a result of an occupational exposure sustained while employed by the City of Newark from August 14, 1989 through November 1, 2014; and

WHEREAS, Petitioner, a retired Fire Chief, filed this occupational claim alleging that his prostate cancer is causally related to his twenty-five (25) years working for the Department of Public Safety, Fire Division, and his exposure to various chemicals, asbestos and carcinogens; and

WHEREAS, in October 2019, the New Jersey legislature enacted N.J.S.A. 34:15-31.8, which provides that any injury, illness or death of a firefighter, which may be caused by cancer, shall be presumed to be an occupational disease compensable under the workers' compensation statute; and

WHEREAS, following settlement negotiations through Petitioner's attorney, Frank S. Salzer,

Esq., and the City's designee, Martin M. Glazer, Esq. ("Outside Counsel"), the parties have agreed to amicably resolve this matter under Section 20 of the Workers' Compensation Act (N.J.S.A. 34:15-20) with the agreement that this settlement is a complete and absolute surrender and release of any and all rights by the petitioner and his dependents as defined by N.J.S.A. 34:15-20 by payment of the amount of Two Hundred Thirty-Five Thousand Dollars and Zero Cents (\$235,000.00) and a Stenographic Fee of Ninety Dollars and Zero Cents (\$90.00), for a total settlement of Two Hundred Thirty-Five Thousand Ninety Dollars and Zero Cents (\$235,090.00) ("Settlement Sum"); and

WHEREAS, this settlement is subject to approval by the Judge of the Division of Workers' Compensation; and

WHEREAS, the total settlement amount may be subject to minor changes in the amount or distribution at the time the Settlement Agreement is approved and the Settlement Order executed by the Judge of the Division of Workers' Compensation; and

WHEREAS, if the matter proceeds to trial, the City will spend and pay more than the proposed total Settlement Sum to resolve this matter; and

WHEREAS, the Municipal Council believes it is in the best interests of the City of Newark, that minor changes to the correct amount of the settlement and distribution shall not require subsequent Municipal Council approval provided the settlement amount is not increased or decreased above \$500.00 and all the terms and conditions are substantially the same as authorized by this resolution; and

WHEREAS, based on all of the facts and circumstances surrounding this matter, Corporation Counsel and/or Outside Counsel deem it is in the best interest of the City of Newark to accept said settlement in the total amount of Two Hundred Thirty-Five Thousand Ninety Dollars and Zero Cents (\$235,090.00).

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

1. The settlement of the Workers' Compensation claim matter bearing C.P. #2017-5432 is hereby approved.
2. Upon receipt by the Corporation Counsel and/or the Outside Counsel of all supporting documents the Director of the Department of Finance is hereby authorized and directed to issue checks in the amounts as follows:
 - a. \$186,768.00 (One Hundred Eighty-Six Thousand Seven Hundred Sixty-Eight Dollars and Zero Cents) made payable and mailed to: James Graves. \$1,200.00 (Twelve Hundred Dollars and Zero Cents) was subtracted from the Petitioner's award for medical evaluation fees, Thirty-Two Dollars and Zero Cents (\$32.00) was subtracted from the award to pay medical records fees, and \$47,000.00 (Forty-Seven Thousand Dollars and Zero Cents) was subtracted from the award to pay attorney fees all in accordance with the settlement provisions.
 - b. \$48,232.00 (Forty-Eight Thousand Two Hundred Thirty-Two Dollars and Zero Cents)

made payable and mailed to: Frank Salzer, Esq., of Salzer and Salzer.

- c. \$90.00 (Ninety Dollars and Zero Cents) made payable to: J.H. Buehrer and Associates.
3. Attached hereto are the Certifications of the City Comptroller, which state that there are available sufficient legally appropriated funds for the purpose set forth hereinabove and which state that the line appropriation of the Official Budget, which shall be charged is: Business Unit NW024, Dept. ID 24T, Div./Proj. 5T24, Account Code 96310. The Corporation Counsel shall file a copy of the Comptroller's Certifications in the Office of the City Clerk along with a copy of this resolution.
4. A fully executed copy of the Order Approving Settlement shall be filed in the Office of the City Clerk by the Corporation Counsel.

STATEMENT

This resolution authorizes the Corporation Counsel and/or his designee, Martin M. Glazer Esq., on behalf of the City of Newark, to effectuate settlement by entering into an Order Approving Settlement of a Workers' Compensation claim in the amount of \$235,090.00 brought by James Graves, who sustained an occupational disease, prostate cancer, over his twenty-five (25) year employment with the Department of Public Safety, Fire Division.