



Legislation Details (With Text)

File #: 18-1922 **Version:** 1 **Name:** Settlement Agreement (FOP - Tour Change)

Type: Resolution **Status:** Adopted

File created: 12/11/2018 **In control:** Law

On agenda: 1/9/2019 **Final action:** 1/9/2019

Title: Dept./ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Settlement of Labor Matter
Docket No.: NJSBM No. 12-015
Claimant: Fraternal Order of Police, Newark Lodge No. 12
Claimant's Attorney: Law Offices of Markowitz & Richman
Attorney's Address: 123 South Broad Street, Suite 202, Philadelphia, Pennsylvania 19106
Settlement Amount: \$300,000.00
Funding Source: Insurance Trust Fund
Additional Comments:
This settlement resolves alleged improper tour changes that occurred in 2011 and 2012 and effected approximately 321 officers.

Sponsors: Council of the Whole

Indexes:

Code sections:

| Date | Ver. | Action By | Action | Result |
|----------|------|-------------------|--------|--------|
| 1/9/2019 | 1 | Municipal Council | Adopt | Pass |

Dept./ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Settlement of Labor Matter
Docket No.: NJSBM No. 12-015
Claimant: Fraternal Order of Police, Newark Lodge No. 12
Claimant's Attorney: Law Offices of Markowitz & Richman
Attorney's Address: 123 South Broad Street, Suite 202, Philadelphia, Pennsylvania 19106
Settlement Amount: \$300,000.00
Funding Source: Insurance Trust Fund
Additional Comments:
This settlement resolves alleged improper tour changes that occurred in 2011 and 2012 and effected approximately 321 officers.

WHEREAS, the Fraternal Order of Police, Newark Lodge No. 12 ("FOP or "Union"), 51 Rector Street, Newark, New Jersey, 07102, is the recognized representative for Newark police officers ("officers" or "members"); it does not represent the superior officers, and;

WHEREAS, the Union filed grievance No.12-08 on or about February 14, 2012 wherein it alleged that the City unilaterally instituted a tour change for approximately 321 of its members to attend an arms control/defensive tactics training. The training was held during one-week sessions: March 21, 2011 through March 2, 2012, between the hours of 0800 and 1600 (8am to 4pm) ("2011 and 2012 Tour Changes");

WHEREAS, on or about February 14, 2012, the FOP filed a grievance pending before the New Jersey State Board of Mediation, NJSBM No. 12-015, City of Newark and Fraternal Order of Police, Newark Lodge No. 12, concerning alleged improper tour changes that occurred in 2011 and 2012; and

WHEREAS, although there were police officers who were on duty during the training session, for their scheduled regular shift, the Union contends that for the majority of the officers, the shift was not their regular, assigned shift, and many had to come in specifically to attend the defensive tactics training; and

WHEREAS, the Union contends that since the majority of the officers were not assigned to work that shift, the City did not provide the officers with the appropriate overtime compensation; and

WHEREAS, on or about November 6, 2013, Arbitrator Ira Cure heard testimony from the Union, at which time both Parties decided to explore the possibility of settlement; and

WHEREAS, the Parties have determined that it is in their mutual best interests to enter into this Agreement and thereby: (a) amicably resolve all issues in dispute asserted in the arbitration, or which could have been asserted in the arbitration, either by way of claim or defense, without any admission of liability or wrongdoing, and; (b) dismiss the arbitration with prejudice and without costs; and

WHEREAS, in order to avoid the need and expense of additional litigation, the Parties wish to amicably resolve and settle their differences in accordance with the terms and conditions of a Settlement Agreement and Mutual Release, in return and exchange for the mutual consideration set forth herein.

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

1. The Corporation Counsel is authorized to execute the Settlement Agreement and Mutual Release between the City of Newark and the Fraternal Order of Police, Newark Lodge No. 12 to resolve the grievance pending before the New Jersey State Board of Mediation, NJSBM No. 12-015, City of Newark and Fraternal Order of Police, Newark Lodge No.12 concerning alleged improper tour changes that occurred in 2011 and 2012.
2. The Mayor and the Corporation Counsel are authorized to obtain and execute any other documents, sufficient in form and content to the Corporation Counsel, and take whatever actions necessary to effectuate the terms of the within resolution and settlement of this matter pursuant to the terms contained in this Resolution and Settlement Agreement.
3. The Director of the City of Newark Department of Finance is hereby authorized to issue a check made payable to the Law Offices of Markowitz & Richman, 123 South Broad Street, Suite 2020, Philadelphia, Pennsylvania, 19106, in the amount of Three Hundred Thousand Dollars and Zero Cents (\$300,000.00). This Settlement Sum represents full settlement of any and all claims by the FOP, and its members, against the City pertaining to or stemming from the

2011 and 2012 tour changes which are the subject of the grievance and arbitration.

4. The Parties agree that Law Offices of Markowitz & Richman and the FOP shall be, pursuant to the terms of the Settlement Agreement and Mutual Release, be responsible for determining and identifying the police officers who were affected by the tour change, those who were not on duty during the scheduled training, and the amount of compensation to which each affected officer is entitled.
5. Attached hereto is a Certification of Funds, issued by the Director of the Department Finance of the City of Newark, which states that there are available sufficient, legally appropriated funds in the amount of Three Hundred Thousand Dollars and Zero Cents (\$300,000.00), for the purpose set forth herein above and which states that the line appropriation of the office budget which shall be charged is the Department of Business Unit NW025: Dept.: 25T, Div./Proj.7T25, Account# 96340 Budget Ref: B2018,.
6. The Corporation Counsel shall file a copy of the adopted Resolution and fully executed Settlement Agreement and Release in the Office of the City Clerk.
7. A fully executed copy of the Settlement Agreement shall be filed in the Office of the City Clerk by the Corporation Counsel.
8. 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 execute and enter into a Settlement Agreement and Mutual Release between the City of Newark and the Fraternal Order of Police, Newark Lodge No. 12 to resolve the grievance pending before the New Jersey State Board of Mediation, NJSBM No. 12-015, City of Newark and Fraternal Order of Police, Newark Lodge 12 concerning alleged improper tour changes that occurred in 2011 and 2012.