



Legislation Details (With Text)

File #: 3038-2018 **Version:** 1
Type: Ordinance **Status:** Passed
File created: 10/30/2018 **In control:** Judiciary And Court Administration Committee
On agenda: 11/19/2018 **Final action:** 11/21/2018

Title: To authorize the City Attorney, on behalf of the Department of Public Utilities, to compromise and settle the lawsuits of Plaintiffs John Annarino, Glenna Annarino, John A. Annarino, Mary McKenna, Hollis Boardman, Marilyn Boardman, David Ewoldsen, Nancy Rhodes, Jonahan Roskos-Ewoldsen, Mark Fisanick, William Fisanick, Theresa Fisanick, Nicolas Fisanick, Martha Peterson, Farid Mehr, Farzin Mehr, Sean Mehr, Sandra Miller, Tamara Morris, Donald Morris, Richard Rosen, Karen Rosen, Nicholas Stoycheff, Karen Jaske, Hidefumi Ishida, Mariko Ishida, Stephanie Estice as Power of Attorney for Barbara F. Richardson, James R. Lockwood, Margaret Ann Lockwood, Fortunato P. Merullo, Renee M. Merullo, Trevor L. Flannery, Chelcie Flannery, Daniel M. Schafer, Cynthia A. Schafer, and Christina Phelps related to an explosion that occurred on March 21, 2015 that caused damage in Upper Arlington, Ohio in the total amount of \$649,089.00; to authorize the City Auditor to transfer \$600,000.00 between Object Classes within the 2018 Water Operating Fund Budget; to authorize the appropriation and expenditure of \$649,089.00 within Water Operating Fund; and to declare an emergency. (\$649,089.00)

Sponsors:

Indexes:

Code sections:

Attachments: 1. 3038-2018 Financial Coding Transfer

Date	Ver.	Action By	Action	Result
11/21/2018	1	ACTING CITY CLERK	Attest	
11/20/2018	1	MAYOR	Signed	
11/19/2018	1	COUNCIL PRESIDENT	Signed	
11/19/2018	1	Columbus City Council	Approved	Pass

BACKGROUND: This ordinance authorizes the Department of Public Utilities to compromise and settle multiple lawsuits filed against the City of Columbus. An explosion involving natural gas occurred on March 21, 2015 at 3418 Sunningdale Way in Upper Arlington, Ohio (the "Incident"). The Incident caused extensive damage to that residence and its contents, as well as damage to numerous surrounding residences and their contents. The Plaintiffs allege that they suffered personal injury, damages, and bodily injuries caused by the Incident. The Plaintiffs filed lawsuits in the Franklin County, Ohio Court of Common Pleas naming the City of Columbus, Division of Water as one of the defendants.

The lawsuits pertaining to this ordinance are captioned as follows:

1. Sandra Miller, et al. v. Columbia Gas of Ohio, Inc., et al., Case No. 15CVG-9944 *Plaintiffs: John Annarino, Glenna Annarino, John A. Annarino, Mary McKenna, Hollis Boardman, Marilyn Boardman, David Ewoldsen, Nancy Rhodes, Jonahan Roskos-Ewoldsen, Mark Fisanick, William Fisanick, Theresa Fisanick, Nicolas Fisanick, Martha Peterson, Farid Mehr, Farzin Mehr, Sean Mehr, Sandra Miller, Tamara Morris, Donald Morris, Richard Rosen, Karen Rosen, Nicholas Stoycheff, and Karen Jaske*
2. Hidefumi Ishida, et al. v. Columbia Gas of Ohio, Inc., et al., Case No. 15CVG-10847 *Plaintiffs: Hidefumi Ishida and Mariko Ishida*

3. Stephanie Estice v. Columbia Gas of Ohio, Inc., et al., Case No. 15CVG-10871 *Plaintiff: Stephanie Estice as Power of Attorney for Barbara F. Richardson*
4. James R. Lockwood, et al. v. Columbia Gas of Ohio, Inc., et al., Case No. 15CVG-10872 *Plaintiffs: James R. Lockwood and Margaret Ann Lockwood*
5. Fortunato Merullo, et al. v. Columbia Gas of Ohio, Inc., et al., Case No. 15CVG-10874 *Plaintiffs: Fortunato P. Merullo and Renee M. Merullo*
6. Trevor Flannery, et al. v. Columbia Gas of Ohio, Inc., et al., Case No. 15CVG-10875 *Plaintiffs: Trevor L. Flannery and Chelcie Flannery*
7. Daniel M. Schafer, et al. v. Columbia Gas of Ohio, Inc., et al., Case No. 15CVG-10877 *Plaintiffs: Daniel M. Schafer and Cynthia A. Schafer*
8. Christina Phelps v. Columbia Gas of Ohio, Inc., et al., Case No. 15CVG-10882 *Plaintiff: Christina Phelps*

The individual Plaintiffs listed above are collectively known as “the Plaintiffs.”

A dispute has arisen between the Plaintiffs and the city regarding the liability of the city, as well as damages that the Plaintiffs allegedly sustained. The city and the Plaintiffs wish to fully resolve all claims related to the explosion, and therefore the city has agreed to pay, and the Plaintiffs have agreed to accept the following payments in complete settlement of any and all of the Plaintiffs’ claims against the city related to the explosion:

1. Seventy Seven Thousand Five Hundred Dollars (\$77,500.00) made payable to John Annarino, Glenna Annarino, John A. Annarino, and Karr & Sherman Co., LPA.
2. Eight Thousand Dollars (\$8,000.00) made payable to Mary McKenna, Hollis Boardman, Marilyn Boardman, and Karr & Sherman Co., LPA.
3. Thirty Thousand Dollars (\$30,000.00) made payable to David Ewoldsen, Nancy Rhodes, and Karr & Sherman Co., LPA.
4. Twenty Two Thousand Five Hundred Dollars (\$22,500.00) made payable to Mark Fisanick, William Fisanick, Theresa Fisanick, Nicolas Fisanick, Martha Peterson, and Karr & Sherman Co., LPA.
5. Thirty Thousand Dollars (\$30,000.00) made payable to Farid Mehr, Farzin Mehr, Sean Mehr, and Karr & Sherman Co., LPA.
6. Twenty Two Thousand Five Hundred Dollars (\$22,500.00) made payable to Sandra Miller and Karr & Sherman Co., LPA.
7. Twenty Thousand Dollars (\$20,000.00) made payable to Tamara Morris, Donald Morris, and Karr & Sherman Co., LPA.
8. Thirty Thousand Dollars (\$30,000.00) made payable to Richard Rosen, Karen Rosen, and Karr & Sherman Co., LPA.
9. Seventeen Thousand Five Hundred Dollars (\$17,500) made payable to Nicholas Stoycheff, Karen Jaske, and Karr & Sherman Co., LPA.

10. Twenty Thousand Dollars (\$20,000.00) made payable to Stephanie Estice as Power of Attorney for Barbara F. Richardson and Warner Law Offices, PLLC.
11. Twelve Thousand Five Hundred Dollars (\$12,500.00) made payable to Trevor L. Flannery, Chelcie Flannery, and Warner Law Offices, PLLC.
12. Two Hundred Sixteen Thousand Eighty Nine Dollars (\$216,089.00) made payable to Hidefumi Ishida, Mariko Ishida, and Warner Law Offices, PLLC.
13. Fifty Thousand Dollars (\$50,000.00) made payable to James R. Lockwood, Margaret Ann Lockwood, and Warner Law Offices, PLLC.
14. Twenty Five Thousand Dollars (\$25,000) made payable to Fortunato P. Merullo, Renee M. Merullo, and Warner Law Offices, PLLC.
15. Five Thousand Dollars (\$5,000.00) made payable to Christina Phelps and Warner Law Offices, PLLC.
16. Sixty Two Thousand Five Hundred Dollars (\$62,500.00) made payable to Daniel M. Schafer, Cynthia A. Schafer, and Warner Law Offices, PLLC.

This ordinance authorizes the City Attorney, on behalf of the Department of Public Utilities, to compromise and settle the above captioned lawsuits and to resolve all issues and disputes now existing between the city and the Plaintiffs relating to the Incident in the total collective amount of \$649,089.00, distributed to the Plaintiffs as enumerated above, and to execute any necessary documents to effectuate the settlement.

FISCAL IMPACT: The City will make payment to the Plaintiffs in the total amount of \$649,089.00, distributed to the Plaintiffs as enumerated above. This ordinance authorizes the appropriation and expenditure of funds from the Water Operating Fund for this expenditure. Also included in this ordinance is a budget transfer authority from Object Class 03-Service to Object Class 05- Other Expenditures in order to align the budgeted funds with the projected needs for this contract.

To authorize the City Attorney, on behalf of the Department of Public Utilities, to compromise and settle the lawsuits of Plaintiffs John Annarino, Glenna Annarino, John A. Annarino, Mary McKenna, Hollis Boardman, Marilyn Boardman, David Ewoldsen, Nancy Rhodes, Jonahan Roskos-Ewoldsen, Mark Fisanick, William Fisanick, Theresa Fisanick, Nicolas Fisanick, Martha Peterson, Farid Mehr, Farzin Mehr, Sean Mehr, Sandra Miller, Tamara Morris, Donald Morris, Richard Rosen, Karen Rosen, Nicholas Stoycheff, Karen Jaske, Hidefumi Ishida, Mariko Ishida, Stephanie Estice as Power of Attorney for Barbara F. Richardson, James R. Lockwood, Margaret Ann Lockwood, Fortunato P. Merullo, Renee M. Merullo, Trevor L. Flannery, Chelcie Flannery, Daniel M. Schafer, Cynthia A. Schafer, and Christina Phelps related to an explosion that occurred on March 21, 2015 that caused damage in Upper Arlington, Ohio in the total amount of \$649,089.00; to authorize the City Auditor to transfer \$600,000.00 between Object Classes within the 2018 Water Operating Fund Budget; to authorize the appropriation and expenditure of \$649,089.00 within Water Operating Fund; and to declare an emergency. (\$649,089.00)

WHEREAS, the Division of Water has a need to transfer \$600,000.00 between Object Classes in the 2018 Water Operating Fund Budget. Funds for this contract were not budgeted in Object Class 05-Other Expenditures so a portion of the funding is needed from Object Class 03-Services; and

WHEREAS, on March 21, 2015 an explosion occurred that caused damage to Plaintiffs John Annarino, Glenna Annarino, John A. Annarino, Mary McKenna, Hollis Boardman, Marilyn Boardman, David Ewoldsen, Nancy Rhodes,

Jonahan Roskos-Ewoldsen, Mark Fisanick, William Fisanick, Theresa Fisanick, Nicolas Fisanick, Martha Peterson, Farid Mehr, Farzin Mehr, Sean Mehr, Sandra Miller, Tamara Morris, Donald Morris, Richard Rosen, Karen Rosen, Nicholas Stoycheff, Karen Jaske, Hidefumi Ishida, Mariko Ishida, Stephanie Estice as Power of Attorney for Barbara F. Richardson, James R. Lockwood, Margaret Ann Lockwood, Fortunato P. Merullo, Renee M. Merullo, Trevor L. Flannery, Chelcie Flannery, Daniel M. Schafer, Cynthia A. Schafer, and Christina Phelps; and

WHEREAS, a dispute has arisen between the City and the Plaintiffs regarding the liability of the City, as well as damages that the Plaintiffs allegedly sustained; and

WHEREAS, the Plaintiffs filed lawsuits against the City in connection with the explosion, and the City denies any liability; and

WHEREAS, the City and the Plaintiffs wish to fully resolve all litigation related to the Incident, and therefore the City has agreed to pay, and the Plaintiffs have agreed to accept, settlements that collectively total the amount of \$649,089.00 in complete settlement of any and all of the Plaintiffs' claims against the City related to the Incident and distributed as follows:

1. Seventy Seven Thousand Five Hundred Dollars (\$77,500.00) made payable to John Annarino, Glenna Annarino, John A. Annarino, and Karr & Sherman Co., LPA.
2. Eight Thousand Dollars (\$8,000.00) made payable to Mary McKenna, Hollis Boardman, Marilyn Boardman, and Karr & Sherman Co., LPA.
3. Thirty Thousand Dollars (\$30,000.00) made payable to David Ewoldsen, Nancy Rhodes, and Karr & Sherman Co., LPA.
4. Twenty Two Thousand Five Hundred Dollars (\$22,500.00) made payable to Mark Fisanick, William Fisanick, Theresa Fisanick, Nicolas Fisanick, Martha Peterson, and Karr & Sherman Co., LPA.
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13. Fifty Thousand Dollars (\$50,000.00) made payable to James R. Lockwood, Margaret Ann Lockwood, and Warner Law Offices, PLLC.
14. Twenty Five Thousand Dollars (\$25,000) made payable to Fortunato P. Merullo, Renee M. Merullo, and Warner Law Offices, PLLC.
15. Five Thousand Dollars (\$5,000.00) made payable to Christina Phelps and Warner Law Offices, PLLC.
16. Sixty Two Thousand Five Hundred Dollars (\$62,500.00) made payable to Daniel M. Schafer, Cynthia A. Schafer, and Warner Law Offices, PLLC; and

WHEREAS, it is necessary to authorize the appropriation and expenditure of \$649,089.00 from the Water Operating Fund; and

WHEREAS, there is an emergency in the usual daily operations of the Department of Public Utilities in that it is immediately necessary that this settlement be approved and such payment be made so that these lawsuits can be resolved, for the preservation of the public peace, safety and welfare; now therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That the transfer of \$600,000.00 or so much thereof as may be needed, is hereby authorized between Object Classes within Fund 6000 Water Operating Fund per the accounting codes in the attachment to the Ordinance.

SECTION 2. That the City Attorney, on behalf of the Department of Public Utilities, is hereby authorized to compromise and settle the lawsuits of Plaintiffs John Annarino, Glenna Annarino, John A. Annarino, Mary McKenna, Hollis Boardman, Marilyn Boardman, David Ewoldsen, Nancy Rhodes, Jonahan Roskos-Ewoldsen, Mark Fisanick, William Fisanick, Theresa Fisanick, Nicolas Fisanick, Martha Peterson, Farid Mehr, Farzin Mehr, Sean Mehr, Sandra Miller, Tamara Morris, Donald Morris, Richard Rosen, Karen Rosen, Nicholas Stoycheff, Karen Jaske, Hidefumi Ishida, Mariko Ishida, Stephanie Estice as Power of Attorney for Barbara F. Richardson, James R. Lockwood, Margaret Ann Lockwood, Fortunato P. Merullo, Renee M. Merullo, Trevor L. Flannery, Chelcie Flannery, Daniel M. Schafer, Cynthia A. Schafer, and Christina Phelps related to an explosion that occurred on March 21, 2015 in Upper Arlington, Ohio for the collective total amount of \$649,089.00 (Six Hundred Forty Nine Thousand Eighty Nine Dollars and no cents).

SECTION 3. That the City Attorney and the Director of Public Utilities are hereby authorized to execute any necessary agreements associated with the settlements and final resolution of these lawsuits on behalf of the City.

SECTION 4. That for the purpose of paying the cost to compromise and settle all claims of the Plaintiffs related to an explosion that occurred on March 21, 2015 in Upper Arlington, Ohio, the appropriation and expenditure as detailed in the accounting codes in the attachment to this ordinance or as much thereof as may be needed is authorized.

SECTION 5. That the City Auditor is hereby authorized to establish proper project accounting numbers as appropriate.

SECTION 6. That the City Auditor is authorized to make any accounting changes to revise the funding source for all contract or contract modifications associated with this ordinance.

SECTION 7. That the City Auditor be and is hereby authorized to draw warrants upon the City Treasurer in the sums and made payable to individuals and entities as set forth in the preamble hereto upon receipt of a voucher and a release approved by the City Attorney.

SECTION 8. That for the reasons set forth in the preamble, which are incorporated by reference herein, this ordinance is hereby deemed to be an emergency measure and shall take effect and be in force from and immediately after its passage and approval by the Mayor, or 10 days after if the Mayor neither approves nor vetoes the same.

