



Legislation Details (With Text)

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Title: To authorize the transfer of funds within the Division of Police's General Fund Budget; to authorize and direct the City Attorney to settle the civil action captioned Clarke v. Columbus, currently pending before the United States District Court for the Southern District of Ohio, Eastern Division; to authorize an expenditure in the amount of Thirty Thousand Dollars in settlement of that civil action; and to declare an emergency. (\$30,000.00)

Sponsors:

Indexes:

Code sections:

Attachments:

| Date | Ver. | Action By | Action | Result |
|------------|------|-----------------------|----------|--------|
| 10/10/2013 | 1 | ACTING CITY CLERK | Attest | |
| 10/10/2013 | 1 | MAYOR | Signed | |
| 10/7/2013 | 1 | COUNCIL PRESIDENT | Signed | |
| 10/7/2013 | 1 | Columbus City Council | Approved | Pass |

This ordinance is submitted to settle the civil action captioned Clarke v. Columbus, assigned case number 2:12-CV-1027, and currently pending before the United States District Court for the Southern District of Ohio, Eastern Division.

On November 7, 2012, Julian Clarke commenced a lawsuit against the City of Columbus and two Columbus Police officers in the United States District Court for the Southern District of Ohio, Eastern Division. The lawsuit arises out of an investigatory detention and arrest that took place at around 4:25 a.m., on February 6, 2012, in front of 3426 Kenlawn Avenue, in Columbus, Ohio. Julian Clarke claims that Columbus Police officers unlawfully detained him and subsequently arrested him at the above-described time and place and that at least one officer employed excessive force during that detention and arrest. The Defendants maintain that the detention and the arrest were lawful and that the force employed during that detention and arrest was reasonable and within policy. The factual disputes between the parties cannot be resolved through dispositive motions, and a full trial would thus be necessary to litigate the civil action fully. Although Defendants feel they have a strong likelihood of success at such a trial, there is still an appreciable risk of an adverse judgment. Further, although Julian Clarke's personal injuries were minor and his claimed out-of-pocket damages are minimal, an adverse judgment in this civil action would nonetheless expose the City to liability for his attorneys' fees under 42 U.S.C. § 1988. In light of the foregoing, the City Attorney's Office and the Department of Public Safety agree that Thirty Thousand Dollars (\$30,000.00) represents a favorable pretrial settlement in light of the risks and uncertainty that Defendants would face at trial.

Fiscal Impact: Funds were not specifically budgeted for this settlement, however, this legislation also requests the transfer of funds within the Division of Police's General Fund Budget, from the Transfer line item to Claims to provide sufficient funds for this transaction.

To authorize the transfer of funds within the Division of Police's General Fund Budget; to authorize and direct the City Attorney to settle the civil action captioned Clarke v. Columbus, currently pending before the United States District Court for the Southern District of Ohio, Eastern Division; to authorize an expenditure in the amount of Thirty Thousand Dollars in settlement of that civil action; and to declare an emergency. (\$30,000.00)

WHEREAS, a civil action captioned Clarke v. Columbus, assigned case number 2:12-CV-1027, is currently pending before the United States District Court for the Southern District of Ohio, Eastern Division in which Julian Clarke alleges unlawful detention and arrest and excessive force against the City of Columbus and two Columbus Police officers; and

WHEREAS, it is in the best interest of the City of Columbus to settle this civil action in the total amount of Thirty Thousand Dollars (\$30,000.00); and

WHEREAS, It is necessary to transfer funds between Object Level Ones within the Division of Police's General Fund Budget in order to settle this claim; and

WHEREAS, an emergency exists in the usual operations of the City in that it is in the City's best interest to compromise and settle this matter immediately, and for further preservation of the public health, peace, property, safety, and welfare; NOW, THEREFORE,

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

SECTION 1. That the City Auditor is authorized to transfer funds within the Division of Police's General Fund Budget as follows:

FROM: Fund 010|Division 3003|Object Level One 10|Object Level Three 5501|OCA Code 900076|Amount \$30,000.00

TO: Fund 010|Division 3003|Object Level One 05|Object Level Three 5573|OCA Code 301382|Amount \$30,000.00

SECTION 2. That the City Attorney be, and hereby is, authorized and directed to settle the civil action captioned Clarke v. Columbus, assigned case number 2:12-CV-1027, and currently pending before the United States District Court for the Southern District of Ohio, Eastern Division, by payment of Thirty Thousand Dollars (\$30,000.00);

SECTION 3 That for purposes of paying the settlement described in Section 2, there be, and hereby is, authorized to be expended by the City of Columbus, Department of Public Safety, Division of Police Division No. 30-03, Fund 010, OCA code 301382, object level 1-05, object level 3-5573

SECTION 4. That the City Auditor be, and hereby is, authorized to draw a warrant upon the City Treasury upon receipt of a voucher and release approved by the City Attorney in the amount of Thirty Thousand Dollars (\$30,000.00) payable to Julian Clarke and the law firm of Luftman, Heck and Associates, LLP;

SECTION 5. That for the reasons stated in the preamble hereto, which is made part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.