



Legislation Details (With Text)

File #: 2663-2013 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 11/6/2013 **In control:** Public Safety & Judiciary Committee

On agenda: 12/2/2013 **Final action:** 12/5/2013

Title: To authorize and direct the City Attorney to settle the lawsuit of Tremaine Nelms, et al. v. City of Columbus, et al., currently pending in the United States District Court for the Southern District of Ohio, Eastern Division; to authorize the transfer and expenditure of \$35,000.00 within the Division of Police's General Fund Budget; and to declare an emergency. (\$35,000.00)

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
12/5/2013	1	CITY CLERK	Attest	
12/4/2013	1	MAYOR	Signed	
12/2/2013	1	COUNCIL PRESIDENT	Signed	
12/2/2013	1	Columbus City Council	Approved	Pass

Background

This ordinance is submitted to settle the lawsuit of *Tremaine Nelms, et al. v. City of Columbus, et al.*, United States District Court for the Southern District of Ohio, Eastern Division Case No. C2-08-1038, for the total amount of Thirty-Five Thousand Dollars (\$35,000.00).

A Columbus police officer entered the apartment of Tremaine Nelms at 4400 Shoupmill Drive on April 9, 2007. The officer did not have a warrant to enter, but believed there were circumstances that permitted his entry. The officer was trying to locate the resident after being dispatched to the apartment on the report of property destruction. Mr. Nelms and his brother, Kaylen Alli, filed a lawsuit against the City of Columbus and two Columbus police officers, asserting that the warrantless entry into the apartment was a violation of their rights under the Fourth Amendment. Although summary judgment had been granted in favor of the defendants, the United States Court of Appeals reversed the decision and remanded the case to District Court for trial. The District Court conducted a case mediation on October 21, 2013 at which the terms of a settlement were agreed to by all parties. The City Attorney's Office and the Department of Public Safety recommend approval of the settlement as being in the best interest of the City.

Fiscal Impact

Funds were not specifically budgeted for this settlement; however, funds will be transferred within the Division of Police's General Fund Budget, from the Transfers line item to Claims, to properly align appropriation with projected expenditure.

To authorize and direct the City Attorney to settle the lawsuit of *Tremaine Nelms, et al. v. City of Columbus, et al.*, currently pending in the United States District Court for the Southern District of Ohio, Eastern Division; to authorize the transfer and expenditure of \$35,000.00 within the Division of Police's General Fund Budget; and to declare an emergency. (\$35,000.00)

WHEREAS, in October 2008, Tremaine Nelms and Kaylen Alli filed a lawsuit against the City of Columbus and two Columbus police officers, arising out of the warrantless entry into the residence of Tremaine Nelms on April 9, 2007. Plaintiffs claimed that the entry was unlawful and a violation of rights under the Fourth Amendment; and

WHEREAS, after investigation of the claims made therein and the damages allegedly suffered by the plaintiffs, a settlement has been reached that is acceptable to the parties and that is recommended by the City Attorney's Office and the Department of Public Safety as being in the best interest of the City to resolve this matter; and

WHEREAS, by reason of the foregoing, an emergency exists in the usual daily operations of the City in that it is immediately necessary to authorize this settlement as in the best interest of the City and to avoid additional litigation expenses thereby preserving 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 Attorney is hereby authorized and directed to settle the lawsuit of *Tremaine Nelms, et al. v. City of Columbus*, Case No. C2-08-1038, pending in the United States District Court for the Southern District of Ohio, Eastern Division, in the total amount of Thirty-Five Thousand Dollars (\$35,000.00) as a reasonable and fair amount, and in the best interest of the City of Columbus.

Section 2. That the City Auditor be and is hereby authorized and directed to transfer the sum of \$35,000.00 within Police's general fund budget, fund no. 010, department/division 30-03, from object level 1-10, object level 3 - 5501, OCA 900076 to object level 1 - 05, object level 3 - 5573, OCA 301382.

Section 3. That for the purpose of paying the settlement, there be and hereby is authorized to be expended by the City of Columbus, Department of Public Safety, Division of Police, Department/Division 30-03, fund no. 010, Object level one - 05, Object level three - 5573, OCA 301382, the sum of Thirty-Five Thousand Dollars (\$35,000.00).

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-Five Thousand Dollars (\$35,000.00) and made payable in the following manner:

Thirty-Five Thousand Dollars (\$35,000.00) to:

Tremaine M. Nelms,
Kaylen L. Alli, and
Spater & Davis-Williams, LLC
250 E. Broad St., 10th Fl.
Columbus, OH 43215-370

Section 5. That for the reasons stated in the preamble hereto, which is hereby made a 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.