



Legislation Details (With Text)

File #: 2606-2022 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 9/19/2022 **In control:** Criminal Justice & Judiciary Committee

On agenda: 10/10/2022 **Final action:** 10/13/2022

Title: To authorize and direct the City Attorney to settle the lawsuit known as Rachel A. Daviner v. City of Columbus, et al. pending in the Franklin County Court of Common Pleas; to authorize the transfer and expenditure of the sum of Twenty-Five Thousand Dollars and zero cents from the Health's Special Revenue Fund (\$25,000.00) in settlement of this lawsuit; and to declare an emergency. (\$25,000.00)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Daviner 2606-2022 Fiscal Attachment

| Date | Ver. | Action By | Action | Result |
|------------|------|-----------------------|----------|--------|
| 10/13/2022 | 1 | CITY CLERK | Attest | |
| 10/12/2022 | 1 | MAYOR | Signed | |
| 10/10/2022 | 1 | COUNCIL PRESIDENT | Signed | |
| 10/10/2022 | 1 | Columbus City Council | Approved | Pass |

Background:

This Ordinance is submitted to settle the lawsuit known as *Rachel A. Daviner v. City of Columbus, et al.*, Case No. 21 CV 5591 in the Franklin County Court of Common Pleas, in the amount of Twenty-Five Thousand Dollars and zero cents (\$25,000.00). Plaintiff's claim arises out of a motor vehicle crash between Ms. Daviner and a City of Columbus employee, Kenneth Caldwell.

On September 3, 2021, Ms. Daviner filed a lawsuit in the Franklin County Court of Common Pleas, Case No. 21 CV 5591, against the City of Columbus and Kenneth Caldwell, in which she claimed she was injured in a motor vehicle crash with Columbus City Employee Kenneth Caldwell on September 13, 2019. Specifically, Ms. Daviner alleges she suffered from injuries including whiplash and subcutaneous mass/post traumatic hematoma as a result.

Fiscal Impact:

Funds were not specifically budgeted for this settlement; however, sufficient monies are available within the Health's Special Revenue Fund 2250 for this purpose.

Emergency action is requested for this ordinance to be effective immediately in order for the parties to effectuate the settlement of this lawsuit, which is in the best interest of the City, and to pay the agreed sum without delay.

To authorize and direct the City Attorney to settle the lawsuit known as *Rachel A. Daviner v. City of Columbus, et al.* pending in the Franklin County Court of Common Pleas; to authorize the transfer and expenditure of the sum of Twenty-Five Thousand Dollars and zero cents from the Health's Special Revenue Fund (\$25,000.00) in settlement of this lawsuit; and to declare an emergency. (\$25,000.00)

WHEREAS, on September 3, 2021, a lawsuit was filed by Rachel Daviner in the Franklin County Court of Common Pleas, Case No. 21 CV 5591, against the City of Columbus and Kenneth Caldwell in which Ms. Daviner claimed she was injured after being involved in a motor vehicle crash with Columbus City employee, Kenneth Caldwell; and

WHEREAS, following the evaluation of the claims and the risk of continued litigation of the claims against the City of Columbus and Rachel Daviner a settlement in the amount of Twenty-Five Thousand Dollars and zero cents (\$25,000.00) to be paid by the City, was deemed acceptable by the City of Columbus, Columbus Public Health, along with dismissal of the case with prejudice and a release of the City of Columbus and its employees from any further liability; and

WHEREAS, an emergency exists in the usual daily operations of the Department of Columbus Public Health, in that it is immediately necessary for the Columbus City Attorney to settle the lawsuit in order for the parties to effectuate the settlement and to pay the agreed sum without delay in accordance with the agreement; all for the immediate 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 Attorney be and hereby is authorized and directed to settle all claims against the City of Columbus, its officers, agents, and employees pending in the case known as *Rachel Daviner v. City of Columbus, et al.*, Case No. 21 CV 5591 in the Franklin County Court of Common Pleas by payment of Twenty-Five Thousand Dollars and zero cents (\$25,000.00) as a reasonable and fair amount and in the best interest of the City of Columbus.

Section 2. That the transfer of \$25,000.00, or so much thereof as may be needed, is hereby authorized between object classes within the Health's Special Revenue Fund Transfer Line per the account codes in the attachment to this ordinance:

Section 3. That the expenditure of \$25,000.00, or so much thereof as may be needed, is hereby authorized as follows in the Health's Special Revenue Fund 2250, object class 05, for Medical Claims per the accounting codes in the attachment to this ordinance:

Section 4. That, upon receipt of an approved invoice and a release approved by the City Attorney, the City Auditor be and is hereby authorized to draw a warrant upon the City Treasurer for the sum of Twenty-Five Thousand Dollars and zero cents (\$25,000.00) payable to O'Connor Acciani & Levy Co., LPA and Rachel Daviner.

Section 5. That for the reasons stated in the preamble hereto, which is made a part hereof, this ordinance is hereby declared to 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.