



## Legislation Text

File #: 0535-2020, Version: 1

### BACKGROUND:

This Ordinance is submitted to settle the lawsuit captioned *Dale Phillips v. Karen Blair, et al.*, United States District Court Case No. 2:16-cv-880, in the amount of Forty-Five Thousand Dollars (\$45,000.00). On September 15, 2014, Dale K. Phillips II was arrested and charged with "obstruction of official business" in connection with Columbus police officers' investigation of a reported "burglary in progress." On September 13, 2016, Mr. Phillips filed the above-referenced lawsuit in federal court, alleging claims against six officers and the City of Columbus for retaliation in violation of the First Amendment; illegal search and seizure, use of excessive force, false arrest, and malicious prosecution in violation of the Fourth Amendment; and malicious prosecution in violation of Ohio law.

On September 3, 2019, the Sixth Circuit Court of Appeals issued its decision, reversing the district court and granting judgment to Defendant officers. The Sixth Circuit held the defendant officers' actions in detaining Mr. Phillips, forcefully extracting him from his truck, taking him to the ground, handcuffing him, and charging him with "obstruction of justice" were all objectively reasonable. The case was remanded for trial as to Mr. Phillips' claim of excessive force based on the use of pepper spray, which was not part of the appeal because it involved a dispute of fact. Defendants maintain the officer who deployed the pepper spray used it to stop Phillips from resisting so that the officers could secure him with handcuffs; Phillips maintains both handcuffs were on when the pepper spray was used and he was compliant. The remaining defendants were the officer who deployed the pepper spray and the City.

### FISCAL IMPACT:

Funds were not specifically budgeted for this settlement; however, sufficient monies are available in the Division of Police's general fund budget for this purpose.

### EMERGENCY DESIGNATION:

Emergency legislation is necessary to ensure settlement is paid in a timely manner.

To authorize and direct the City Attorney to settle the lawsuit captioned *Dale Phillips v. Karen Blair, et al.*, Case No. 2:16-cv-880, pending in the United States District Court for the Southern District of Ohio, Eastern Division; to authorize the expenditure of the sum of \$45,000.00 in settlement of the lawsuit; and to declare an emergency.

**WHEREAS**, in September 2016, Dale K. Phillips filed a lawsuit in the United States District Court for the Southern District of Ohio, Eastern Division, *Dale Phillips v. Karen Blair, et al.*, Case No. 2:16-cv-880, in which he alleged claims against six officers and the City of Columbus for retaliation in violation of the First Amendment; illegal search and seizure, use of excessive force, false arrest, and malicious prosecution in violation of the Fourth Amendment; and malicious prosecution in violation of Ohio law, all such claims having been dismissed with the exception of a Fourth Amendment claim of excessive force against one officer and the City; and

**WHEREAS**, following the evaluation of the incident, a settlement in the amount of Forty-Five Thousand Dollars

(\$45,000.00), to be paid by the City, was deemed to be acceptable in exchange for a release from Mr. Phillips of any claims against the City of Columbus and any of its employees, agents, officials, past or present, related to, or arising out of, the incident occurring on September 15, 2014, including any claims related to the lawsuit that was filed in the United States District Court for the Southern District of Ohio, Case No. 2:16-cv-880, the remaining claims in such case to be dismissed with prejudice pursuant to stipulation; and

**WHEREAS**, an emergency exists in the usual daily operations of the Department of Public Safety, Division of Police, in that it is immediately necessary to authorize and direct the City Attorney to settle the lawsuit in order for the parties to effectuate the settlement of these claims, which is in the best interest of the City, and to pay the agreed sum without delay;  
**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 the lawsuit captioned *Dale Phillips v. Karen Blair, et al.*, Case No. 2:16-cv-880, and all claims against the City of Columbus, its officers, agents, and employees, present and former by payment of the sum of Forty-Five Thousand Dollars (\$45,000.00) as a reasonable and fair amount and in the best interest of the City of Columbus.

**SECTION 2.** That for purposes of paying this settlement there be, and hereby is authorized to be, expended by the City of Columbus, from the Department of Public Safety, Division of Police general fund budget, the sum of \$45,000.00, or so much thereof as may be needed, per the accounting codes in the attachment to this ordinance.

**SECTION 3.** That, upon receipt of a voucher 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 Forty-Five Thousand Dollars (\$45,000.00) made payable to Gerhardstein and Branch, Co., LPA, trust account for the benefit of Dale K. Phillips, II.

**SECTION 4.** 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 (10) days after passage if the Mayor neither approves nor vetoes.