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August 11, 2011

To the Honorable
Common Council of the
City of Milwaukee
Room 205 – City Hall

Re: *Ezell, et al. v. Maio, et al.*
Case No. 11-C-160

Dear Council Members:

Enclosed is a proposed resolution and fiscal note authorizing payment of a settlement amount regarding the above-referenced matter. We request that the enclosed documents also be referred to the appropriate committee or committees for review.

Tervel Ezell and his mother, Serena Ezell, brought suit regarding events which stem from the arrest of Tervel Ezell, which occurred on or about March 12, 2004 at Burroughs Middle School. In short, Mr. Ezell had been running through the school and creating a disturbance with other students. A representative of the school called the Milwaukee Police Department for assistance. Officer Maio was one of the officers who responded. Mr. Ezell was taken into custody and handcuffed. Mr. Ezell maintains that the officer used excessive force while handcuffing Mr. Ezell. The officer maintains that Mr. Ezell was struggling with him, and that he only used that force necessary to get Mr. Ezell handcuffed. In any event, the varying statements of the witnesses created a significant question of fact regarding the use of force issue, and the issue would therefore likely have to proceed to jury trial.

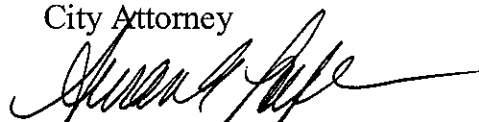
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However, the court ordered that we mediate the case. Mr. Ezell suffered some scrapes and bruises, but his primary complaint was that during the handcuffing process, his head was slammed into a wall, and that as a result, he received a concussion and experienced headaches for a long period of time. Mr. Ezell was treated by his family physician, along with a neurologist, regarding this condition. His medical bills totaled approximately \$3,000.00.

Because of the unpredictability of trial, and the City's risk for exposure to not only compensatory damages, but also to punitive damages and attorney's fees, a modest settlement amount was negotiated during mediation. That amount was \$10,000.00. We recommend that this matter be settled for that amount. Consistent with our recommendation, we have enclosed an appropriate resolution for your consideration.

Very truly yours,

GRANT F. LANGLEY
City Attorney



SUSAN E. LAPPEN
Assistant City Attorney

SEL:tas

Enclosures

1032-2011-146.001:172154