



Legislation Text

File #: 020166, Version: 0

020166
ORIGINAL

THE CHAIR

Resolution authorizing settlement of the claim for attorney's fees and costs in *Deida v. City of Milwaukee, et al.*, Case No. 01-C-0324. (City Attorney)

This resolution authorizes payment of the claim for attorney's fees and costs in the amount of \$12,614.71.

Whereas, This case arose out of the arrest of Rosemary Deida for placing religious tracts under the windshield wipers of vehicles, in violation of Milwaukee City Ordinance 101-3, which adopts § 346.94 (4), Wis. Stats. The ordinance and statute prohibit the placement of leaflets on vehicles on a public highway; however they permit the placement of educational materials relating to the parking privileges of the physically disabled on vehicles that appear to be illegally parked in spaces reserved for the physically disabled; and

Whereas, The United States District Court for the Eastern District of Wisconsin, the Honorable Lynn Adelman presiding, held the ordinance and statute unconstitutional under the First Amendment, which grants to the public the right to speak freely. The court held that the restriction was not content-neutral, and that there was no compelling governmental interest to justify the restriction. The court issued a permanent injunction against enforcement of the ordinance to the extent it adopts § 346.94 (4), Wis. Stats., and awarded attorney's fees and costs under 42 U.S.C. § 1988; and

Whereas, The City Attorney has concluded that an appeal of the court's decision is not warranted; and

Whereas, Counsel for the plaintiff applied to the court for \$20,592.21 of attorney's fees and costs, and the City Attorney objected to portions of the fees' request; and

Whereas, Plaintiff's counsel has agreed to settle his claim for fees and costs in the amount of \$12,614.71; and

Whereas, The City Attorney recommends and the Common Council of the City of Milwaukee deems it expeditious and just to settle this claim; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee that the proper city officers be and hereby are authorized and directed to issue a check in the amount of \$12,614.71 payable to Liberty Counsel in full and final settlement of said claim, said check to be delivered to the City Attorney upon his request, said amount to be charged to the Damages and Claims Fund, Account No. 636506, Fund No. 0001, Organization No. 1490, Program No. 2632, Sub Class No. S118; and, be it

Further Resolved, That the City Attorney shall, upon payment to plaintiff's counsel, obtain a release of claim for attorney's fees and costs as well as a Stipulation and Order for Dismissal of the Attorney's

Fees and Costs Claim, and deliver the original release to the City Clerk.

City Attorney

Rudolph M. Konrad

RMK:Imb

5/6/2002

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