



Legislation Text

File #: 020378, Version: 0

020378
ORIGINAL

THE CHAIR

Resolution approving settlement in the action entitled Bradley DeBraska, et al. v. City of Milwaukee, U.S. District Court Case No. 96-C-402, and authorizing expenditure of funds from the Damages and Claims Fund for implementing the settlement terms.

This resolution approves the settlement of the case entitled Bradley DeBraska, et al. v. City of Milwaukee, U.S. District Court Case No. 96-C-402, regarding whether the prevailing system in effect within the Milwaukee Police Department for affording police officers access to their accrued compensatory time off complied with applicable requirements imposed by the Fair Labor Standards Act (FLSA). The U.S. District Court issued a decision concluding that it was not in compliance, and that the system violated the requirements of FLSA.

The terms of the settlement provide for: payment of a stipulated amount to certain police officers; payment by the City to counsel for the plaintiffs of a stipulated amount representing attorneys' fees; and certain revisions to the provisions of the collective bargaining agreement between the City and the MPA pertaining to overtime benefits.

This resolution further authorizes expenditure of funds from the Damages and Claims Fund for payments required by the settlement.

This resolution further authorizes an expenditure not to exceed \$10,000.00 from the Damages and Claims Fund for payments to eligible current and former police officers under the settlement, and also authorizes expenditure of \$216,291.50 from the fund for attorneys' fees, costs, and expenses of counsel for the plaintiffs.

Whereas, A complaint was filed on April 8, 1996, by Bradley DeBraska, et al., and by over 1,400 individual police officers currently or formerly in the employ of the City of Milwaukee against the City of Milwaukee, alleging that the City had violated the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, in the manner in which it administered various aspects of overtime compensation within the Milwaukee Police Department and in the manner in which it compensated police officers in the employ of the City of Milwaukee for overtime work for the period commencing April 8, 1993; and

Whereas, Certain of the issues raised by that complaint were subsequently settled and others litigated before the United States District Court for the Eastern District of Wisconsin and following appeal, by the Seventh Circuit Court of Appeals; and

Whereas, On September 2, 1999, the Seventh Circuit Court of Appeals remanded to the United States District Court for the Eastern District of Wisconsin for determination of the issue of whether the prevailing system in effect within the Milwaukee Police Department for affording police officers access to their compensatory time off complied with applicable requirements imposed by the Fair Labor Standards Act (FLSA); and

Whereas, On September 26, 2000, the United States District Court for the Eastern District of

Wisconsin issued a decision ruling that that system violated the requirements of the FLSA, and specifying further proceedings pertaining to damages and other remedies to which the plaintiff police officers might be entitled in light of this ruling; and

Whereas, A finding by the Court of a violation on the part of the City of the provisions of the FLSA with respect to administration and/or payment of compensatory time off to police officers in the employ of the City of Milwaukee could result in sizable monetary liabilities accruing to the City in view of the number of individuals affected, the period of time elapsed, and the availability of liquidated damages and mandatory attorneys' fees pursuant to the enforcement provisions of the FLSA; and

Whereas, In light of the foregoing and further in light of the difficulties and uncertainties that would necessarily be incurred in the defense of the City's position with respect to the issue pertaining to compensatory time off, as described above, the City has determined that it would be in the best interests of the City to pursue the possibility of a settlement of those issues; and

Whereas, The plaintiffs and the City, in light thereof, following extended negotiations have reached settlement on the remaining issues in dispute in this case, and have memorialized the terms of settlement in a Final Settlement Agreement (with Attachments), which are subject to the approval of the Court and of the Wage and Hour Division of the United States Department of Labor; and

Whereas, The Final Settlement Agreement (with Attachments) has been submitted to the Court for review and approval; and

Whereas, The Final Settlement Agreement provides in paragraph 5 thereof for the payment of \$10.00 to each "eligible" current and former police officer in the employ of the City of Milwaukee who are no longer members of the collective bargaining unit represented by the Milwaukee Police Association, Local No. 21, IUPA, AFL-CIO and who individually assent to the terms of settlement of the aforestated litigation, and in paragraph 8 thereof for the payment to Michael T. Leibig, Esq., and Laurie A. Eggert, Esq., counsel for the plaintiffs, of a portion of their attorneys' fees and costs of litigation; and

Whereas, The Final Settlement Agreement further provides that certain revisions be made to the provisions of the collective bargaining agreement between the City and the MPA pertaining to overtime benefits; and

Whereas, The City Attorney recommends that the Common Council approve the terms of settlement; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the terms of settlement of the remaining issues in dispute in the litigation entitled Bradley DeBraska, et al. v. City of Milwaukee, U.S. District Court Case No. 96-C-402, including the terms of the Final Settlement Agreement (with Attachments) as attached to this file, are approved in their entirety; and, be it

Further Resolved, That the Common Council authorizes an expenditure not to exceed \$10,000.00 from the Damages and Claims Fund (Account Number 0001 1490 S118 006300) and authorizes the proper City officials to expend from that amount to "eligible" current and former police officers who are no longer members of the collective bargaining unit represented by the Milwaukee Police Association, Local No. 21, IUPA, AFL-CIO, in the employ of the City of Milwaukee, who individually

assent to the terms of settlement of the aforestated litigation and who thereby become eligible to receive the sum of \$10.00 as set forth in paragraph 5 of the Final Settlement Agreement, the amounts indicated in the Final Settlement Agreement, said funds to be paid to such persons and in such amounts as shall be specified by the City Attorney in accordance with the terms of settlement; and, be it

Further Resolved, That the Common Council authorizes the expenditure of \$216,291.50 from the Damages and Claims Fund (Account Number 0001 1490 S118 006300) as authorized and specified by the City Attorney for attorneys' fees, costs, and expenses of counsel for the plaintiffs payable under Section 8 of the Final Settlement Agreement, upon receipt of the properly executed releases approved as to form and execution by the City Attorney, and the proper City officials are hereby authorized and directed to issue City checks drawn upon the foregoing Account in such amounts as shall be specified by the City Attorney, made payable to Michael T. Leibig, Esq. and Laurie A. Eggert, Esq., counsel for the plaintiffs, payable by the City of Milwaukee; and, be it

Further Resolved, That the appropriate City officials are hereby authorized and directed to execute all instruments and documents and to take any other actions necessary to implement the provisions of this resolution.

City Attorney
mcw/lrb
mukamal.mpa.6.17.02
Stuart Mukamal
96C000141/53514
6/18/02