

**MINUTES OF THE MEETING OF THE  
LITIGATION SETTLEMENT COMMITTEE  
Wednesday, June 22, 2011**

**Committee Members Present:** Mr. Robert Smuts, Acting Chairman; Alderman Jorge Perez; Mr. Michael O'Neil, Controller, and Mr. Joseph Clerkin, Designee for Management and Budget

**Corporation Counsel Staff Present:** Victor Bolden, Corporation Counsel; Michael Wolak, III, Senior Assistant Corporation Counsel; Audrey Kramer, Assistant Corporation Counsel; Roderick Williams, Assistant Corporation Counsel; and Nancy Pepe, Legal Assistant II.

**Outside Counsel:** Henri Alexander, Esq.  
Thomas Gerard, Esq.

**CIRMA Care Representative:** Mr. Joseph Salcito

**Workers' Compensation  
Division Representative:** Mr. Daniel Roche

**Meeting Started:** 5:30 p.m.

**Meeting Ended:** 6:15 p.m.

Mr. Smuts called the meeting to order at 5:30 p.m.

Alderman Perez moved approval of the minutes of the May 25, 2011 meeting. Mr. Clerkin seconded the motion. Mr. Smuts, Mr. O'Neil and Mr. Clerkin abstained because they were not present at the May 25, 2011 meeting. The motion passed.

Alderman Perez moved approval of Office Nos. 0939905748 and 0939910082. Mr. Clerkin seconded the motion.

**Office No. 0939905748 and 0939910082 – Manuel Diaz v. City of New Haven** - Mr. Salcito summarized the issues of this matter to the Committee Members. Alderman Perez asked if the claim was denied in 2000. Mr. Salcito stated yes; the City denied his claim due to late notice. Alderman Perez asked if there is any Statute of Limitations. Alderman Perez stated that right now every firefighter or police officer, who's retired from the City of New Haven, and has been denied a heart and hypertension claim, can come back. Mr. Roche stated there is no Statute of Limitation. As long as the case has never formally been ruled on by the Commissioner, they can come back to the City. Alderman Perez stated that it was the City that denied the claim not the Commissioner. Mr. Salcito stated yes.

The motion to approve the recommendation passed unanimously.

Alderman Perez moved approval of Office No. 0035821. Mr. Clerkin seconded the motion.

**Office No. 0035821 – Luis Ayala v. City of New Haven** – Mr. Salcito summarized the issues of this matter to the Committee Members. Mr. Roche stated that this individual may try to get his job back with Public Works. With this settlement, the City will be getting a Covenant not to Sue and a General Release where he will agree to relinquish his job. Alderman Perez asked if the City does physicals on these guys before they start working. Mr. Salcito stated he does not know what the individual departments do as far as pre-employment physical. Alderman Perez asked how we know this is the City's problem. Mr. Salcito stated that basically the Statute requires the City to "take the employee as they are" now. Before, there was the second injury fund. When someone had a pre-existing condition, the City would pass it over to the State. Alderman Perez asked how the City could learn from cases like this, which is why he had the question about the physicals. If the City does a physical and there is a problem, is it documented? Mr. Salcito stated yes. Alderman Perez asked if this was done in this case. Mr. Salcito stated he does not know. Mr. Smuts stated that the City does pre-employment physicals on all employees. Mr. Roche stated that he does not believe that public works employees' pre-employment physicals are any different than other employees. Alderman Perez stated that maybe this should be changed. If employees are going to be lifting, the City should be sure they don't already have a bad back, or if they do, it is properly documented. Mr. Roche will check with Human Resources to see what types of pre-employment physicals are given to employees that are required to lift. Mr. Bolden stated that he has bi-weekly meetings with the Director of Labor Relations, the Director of Disability Services and the Director of Human Resources, and this may be an issue and/or policy change that will be discussed at that meeting.

The motion to approve the recommendation passed unanimously.

Alderman Perez moved approval of Office No. L10-0110. Mr. Clerkin seconded the motion.

**Office No. L10-0110 – Lisa Cestaro v. City of New Haven** – Attorney Williams summarized the issues of this matter to the Committee Members. Alderman Perez stated in the past one of the reasons we settled these cases is because of "prior notice." It seems this person had notice as she walked this area regularly. Is there any proof that she was not aware of it? Attorney Williams stated there are experts that will try to establish this condition was there for a long time. Alderman Perez stated this is all the more reason the Plaintiff should have known it was there. Attorney Williams stated that he felt that is why the Judge put the settlement figure on it that he did.

The motion to approve the recommendation passed unanimously.

Alderman Perez moved approval of Office No. L09-0060. Mr. Clerkin seconded the motion.

**Office No. L09-0060 - Debra Parkmond v. City of New Haven** – Attorney Williams summarized the issues of this matter to the Committee Members. The Committee had no questions.

The motion to approve the recommendation passed unanimously.

Mr. Clerkin moved approval of Office No. L09-0024. Mr. O'Neil seconded the motion.

**Office No. L09-0024 – Ellen Ann Clough v. City of New Haven** – Attorney Kramer summarized the issues regarding this matter to the Committee Members. Mr. Smuts asked if the sidewalk has been repaired. Attorney Kramer stated she is not aware of it being repaired. Mr. Smuts asked Attorney Kramer to provide him with the details of the exact location so that he could follow-up.

The motion to approve the recommendation passed with Mr. Smuts, Mr. O'Neil and Mr. Clerkin voting in favor of the settlement. Alderman Perez abstained.

Mr. Clerkin moved approval of Office No. L09-0016. Mr. O'Neil seconded the motion.

**Office No. L09-0016 – Stephanie Bradley v. Rafael Ramos, et al** – Attorney Wolak summarized the issues of this matter to the Committee Members. Alderman Perez asked if the employee was given a ticket. Attorney Wolak stated that employees of the City get verbal warnings. Alderman Perez asked about discipline. Attorney Wolak stated that he has not heard back from Eric Johnson with regards to discipline. Alderman Perez stated that is unacceptable. Attorney Wolak stated he will follow-up regarding any discipline.

The motion to approve the recommendation passed unanimously.

**Office No. L09-0164 – Abel Sanchez v. Dennis O'Connell, et al** – It was recommended that this matter be discussed in an executive session.

Mr. Clerkin moved the Committee enter into an Executive Session to discuss Office No. L09-0164 with Attorney Bolden and Attorney Alexander. Mr. O'Neil seconded the motion. The motion passed unanimously

The Committee entered into Executive Session at 5:55 p.m.

A motion was made to exit Executive Session. The motion was seconded and passed unanimously. The Committee exited Executive Session at 6:12 p.m.

The motion to approve the recommendation passed unanimously.

A motion was made to adjourn the meeting. The motion was seconded and passed unanimously.

The meeting was adjourned at 6:15 p.m.