

**MINUTES OF THE MEETING OF THE
LITIGATION SETTLEMENT COMMITTEE
Wednesday, December 3, 2008**

Committee Members Present: Mr. Lawrence Rusconi, Chairman; Mr. Robert Smuts, Chief Administrative Officer; Alderman Allan Brison; and Mr. Mark Pietrosimone, Controller.

Corporation Counsel Staff Present: John R. Ward, Corporation Counsel; Audrey C. Kramer, Assistant Corporation Counsel; and Nancy Pepe, Legal Assistant II.

Workers' Compensation

Division Representative: Mr. Daniel Roche

Meeting Started: 5:30 p.m.

Meeting Ended: 5:43 p.m.

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

Mr. Smuts moved approval of the minutes of the November 19, 2008 meeting. Mr. Pietrosimone seconded the motion. The motion passed.

Mr. Pietrosimone moved approval of Office No. L06-0153. Mr. Smuts seconded the motion.

Office No. L06-0153 – Robert Lawlor v. Evenilda Ortiz, et al – Mr. Roche summarized the issues regarding this matter to the Committee Members. Mr. Rusconi asked how a Moratorium Agreement compares to a Global Settlement. Mr. Roche stated that a Moratorium is not quite as good as a Global Settlement but, the \$60,000.00 Moratorium should be enough to protect the City on this particular claim. Alderman Brison asked what the City has paid out. Mr. Roche stated that the City has paid approximately \$23,000.00. The City will be getting about half of that amount back and won't have to pay anything up to \$60,000.00 for this particular claim. Mr. Pietrosimone asked if the City starts now at zero and goes up to the \$60,000.00 Moratorium. Mr. Roche explained that the usual Moratorium is the amount of money that a person puts in after they pay their attorney's fee and pays back the City. In this case the parties will be writing an Agreement that states the City is protected for \$60,000.00. Mr. Pietrosimone asked if the City is free and clear of any claims made on this injury up to \$60,000.00. Mr. Roche stated that was correct

The motion to approve the recommendation passed unanimously.

Mr. Smuts moved approval of Office No. L08-0260. Alderman Brison seconded the motion.

Office No. L08-0260 – Malcolm Davis v. Cyril Taylor – Mr. Roche summarized the issues regarding this matter to the Committee Members. Mr. Rusconi asked if this individual was on duty when this accident happened. Mr. Roche stated that he was driving a police cruiser at the time. Alderman Brison asked if this individual is the defendant. Mr. Roche explained that he is the plaintiff who is suing Mr. Taylor (the Defendant). The City is an Intervening Party for worker's compensation benefits paid. The Defendant did not sue the City. Mr. Rusconi asked if this were the other way around, would they be rushing to settle for this amount. Attorney Kramer stated that if the liability was clear, they would not be rushing to settle for this amount. However, liability is very sketchy in this case. Mr. Pietrosimone asked if the police cruiser (the plaintiff) hit another car and landed on the other side of the road, why didn't the people in that car sue the City. Attorney Kramer stated that she did not know why they did not pursue a lawsuit against the City. Mr. Rusconi stated that perhaps the defendants knew there was some sort of liability on their part and wanted to get out of this with the least amount of exposure. Alderman Brison stated that perhaps the police officer fell asleep. Mr. Roche stated that he did not look at the police report in great detail. However, there were 100 feet of skid marks left from the Police Cruiser. Mr. Rusconi stated that perhaps speed was a factor.

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 5:43 p.m.