

**Agenda Sheet for City Council Meeting of:**

05/21/2012

Date Rec'd	5/16/2012
Clerk's File #	RES 2012-0048
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	CITY ATTORNEY
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Agenda Item Type	Resolutions
Agenda Item Name	RESOLUTION APPROVING SETTLEMENT

Agenda Wording

Resolution approving settlement of The Estate of Otto Zehm, et al v. City of Spokane, et al., Cause No. CV-09-80-LRS, arising out of an incident on March 18, 2006.

Summary (Background)

This claim was settled through mediation.

Fiscal Impact

Expense	\$ 720,554.08
Select	\$
Select	\$
Select	\$

Budget Account

5800-78100-14780-54601
#
#
#

Approvals

Dept Head	BURNS, BARBARA
Division Director	
Finance	LESESNE, MICHELE
Legal	BURNS, BARBARA
For the Mayor	FEIST, MARLENE

Council Notifications

Study Session	
Other	05/14/2012

Additional Approvals

Purchasing	

Distribution List

dstragier@spokanecity.org

RESOLUTION RE: SETTLEMENT OF
CLAIMS AGAINST CITY OF SPOKANE

WHEREAS, the Estate of Otto Zehm, and Genevieve Mann Personal Representative; and Ann Zehm (hereinafter "claimants"), filed a complaint for damages for violation of civil rights on March 13, 2009, arising out of an incident on March 18, 2006; and

WHEREAS, claimants allege injury as a result of the actions of the City of Spokane and its employees and assert financial damages from medical bills, funeral expenses, lost wages, and other special damages; and

WHEREAS, the City and the City's excess insurance carrier, "The Insurance Company of the State of Pennsylvania," through Chartis (formerly known as AIU Holdings), have determined to resolve all differences with claimants and any third parties who may claim a subrogated interest against the City, its officers, agents, employees and contractors, for a payment of \$1,670,000.00. The City of Spokane will pay the balance of its self-insured retention of SEVEN HUNDRED TWENTY THOUSAND, FIVE HUNDRED FIFTY-FOUR AND 08/100 DOLLARS (\$720,554.08), and The Insurance Company of the State of Pennsylvania will pay the balance; and

WHEREAS, in addition to the above monies, non-economic damages have been agreed upon by the parties at the request of the claimants to include the following:

1. Mayor David A. Condon has agreed to issue a letter of apology to Ann Zehm;
2. The City of Spokane will require mandatory Crisis Intervention Training or a reasonable equivalent for all of its patrol officers, except patrol officers retiring within one year;
3. The City will set aside up to FIFTY THOUSAND DOLLARS (\$50,000.00) for the City's Use of Force Commission to pay for an expert advisor for implementation of the Use of Force Commission's recommendations;
4. Mayor David A. Condon will make a recommendation to the City Parks Board to dedicate a pavilion to Otto Zehm in one of the City's Parks.

WHEREAS, the claimants have agreed to accept said payment and the terms outlined above, and in return to provide a release of all claims to the City and named Defendants in their underlying lawsuit entitled The Estate of Otto Zehm, et al v. City of Spokane, et al, Cause No. CV-09-80-LRS, dismissing their lawsuit with prejudice.

NOW THEREFORE, be it resolved by the City Council of the City of Spokane:

That the City of Spokane authorizes the payment to claimants in the amount of SEVEN HUNDRED TWENTY THOUSAND, FIVE HUNDRED FIFTY-FOUR AND 08/100 DOLLARS (\$720,554.08), which is the balance of its self-insured retention, with the understanding that The Insurance Company of the State of Pennsylvania, through Chartis (formerly known as AIU Holdings) will pay the balance of the \$1,670,000.00. In return the claimants will provide a signed release to the City fully extinguishing all claims in connection with the claim and lawsuit entitled The Estate of Otto Zehm, et al v. City of Spokane, et al, Cause No. CV-09-80-LRS, pledging to fully protect and indemnify the City of Spokane, its officers, agents, employees and contractors, against all loss or liability in connection with said claim, and dismissing the lawsuit with prejudice.

PASSED the City Council this _____ day of _____, 2012.

City Clerk

Approved as to form:

Assistant City Attorney