



City of New Bedford
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MEMORANDUM

TO: New Bedford City Council
FROM: Mikaela A. McDermott, City Solicitor
CC: Ari J. Sky, Chief Financial Officer
DATE: May 18, 2016
RE: Judgments/Claims/Settlements Update

CITY CLERK
2016 MAY 18 PM 2:36
CITY OF NEW BEDFORD, MA

The purposes of this memorandum are to provide: (1) an overview of how the funds in the Judgments/Claims/Settlements line item in the General Government Unclassified account have been spent thus far in FY16; and (2) an overview of the claims and litigation currently pending against the City.

I. FY16 Expenditures in the Judgments/Claims/Settlements Line Item

The City Council allocated \$100,000 to the Judgments/Claims/Settlements line item for the FY16 budget. This winter, the CFO's Office transferred an additional \$100,000 to the Judgments/Claims/Settlements line item. As of May 11, 2016, \$187,610.51 of the total \$200,000 in the Judgments/Claims/Settlements line item had been expended and in the following manner:

- \$83,609.15 was paid in deductibles to Trident Insurance Company for 15 matters that are covered by the City's insurance policies. The nature of those 15 insurance matters was as follows:
 - 10 matters were under the employment practices liability policy and involved the following departments: School (3), Police (2), Health (1), Community Services (1), Council on Aging (1), Personnel (1), Traffic (1).
 - The remaining 5 matters were under the law enforcement policy and involved the Police Department.

- \$44,352.42 was paid to settle 38 property damage claims pending against the city. Of those 38 claims, the following departments were involved: DPI (18), Fire (11), Police (5), and DFFM (4).
- \$59,648.94 was paid to settle 9 pending lawsuits against the city. The nature of those 9 lawsuits was as follows:
 - Five lawsuits were for bodily injury and involved the following departments: Police (3) and DPI (2). The total payment for these lawsuits was \$43,846.55.
 - Two lawsuits were for property damage and involved DPI (1) and DFFM (1). The total payment for these lawsuits was \$4,509.81.
 - The remaining two lawsuits were for both property damage and bodily injury and involved DFFM (1) and DPI (1). The total payment for these lawsuits was \$11,292.58.

II. Overview of Claims and Litigation Currently Pending against the City

Outstanding Claims

As of May 11, 2016, there were 72 claims pending against the City that were being handled in-house. Of these 72 claims, 62 were for property damage and involved the following departments: DPI (36), Fire (10), Police (8), DFFM (7), and School (1). Another 10 claims were for personal injury and involved the following departments: DPI (5), Police (3), Fire (1), and unknown (1).

As of May 11, 2016, there were 45 claims pending against the City that were being handled through the City's insurance policies. Of these 45 claims, 25 were for property damage and involved the following departments: DPI (21), Traffic (2), EMS (1), and Council on Aging (1).

Another 18 insurance claims were for personal injury and involved the following departments: School (5), DPI (4), Police (3), Zoo (3), DFFM (2), and Traffic (1). The remaining two insurance claims involve an alleged civil rights violation by the Police Department and the alleged failure to plow a street by DPI.

Outstanding Litigation

There are currently 30 litigation matters in which the City is a defendant and could have to pay insurance deductibles, judgments, and/or settlements from the Judgments/Claims/Settlements line item in the General Government Unclassified account.

Of those 30 matters, 15 are covered by insurance, and the total maximum amount the City could have to pay in deductibles on them is \$205,533.48. The nature of these 15 insurance matters is as follows:

- 8 cases are under the employment practices liability policy and involve the following departments: School (4), Traffic (1), Council on Aging (1), Community Services (1), and Health (1).
- 3 cases are under the law enforcement policy and involve the Police Department.
- 3 cases are under the general liability policy, are for personal injury, and involve the School Department.
- 1 case is under the Auto policy, is for personal injury, and involves EMS.

The remaining 15 cases are not covered by insurance. The case on which the City faces the greatest potential financial exposure is the dispute with AFSCME Council 93 over employee furloughs imposed in 2009. We estimate that the maximum potential exposure in that case, which is currently pending before the Massachusetts Court of Appeals, is \$1.8 million.

The remaining 14 non-insurance cases break down as follows:

- 9 cases are for property damage and involve Police (3), Fire (2), Inspectional Services (1), EMS (1), DPI (1) and the School Department (1).
- 4 cases are for personal injury and involve the Police Department (3) and Fire (1).
- 1 case is an MCAD case involving Animal Control.