



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

May 16, 2017

City Council President Joseph P. Lopes, and
Honorable Members of the City Council
133 William Street
New Bedford, MA 02740

Dear Council President Lopes and Honorable Members of the City Council:

I am submitting for your approval an ORDER that the sum of **THREE HUNDRED SIXTY THOUSAND DOLLARS (\$360,000)** now standing to the credit of the account from

ZOO SALARIES AND WAGES (\$55,000)
PLANNING SALARIES AND WAGES (\$80,000)
MIS SALARIES AND WAGES (\$35,000)
SOLICITORS SALARIES AND WAGES (\$25,000)
ASSESSORS SALARIES AND WAGES (\$15,000)
PURCHASING SALARIES AND WAGES (\$20,000)
AUDITOR SALARIES AND WAGES (\$20,000)
LIBRARY SALARIES AND WAGES (\$40,000)
HEALTH SALARIES AND WAGES (\$20,000)
DEBT SERVICE OTHER CHARGES (\$50,000)

be and the same is hereby transferred and appropriated to as follows:

GENERAL GOVERNMENT UNCLASSIFIED
CHARGES AND SERVICES \$360,000

To be certified and approved by the Department Head

Sincerely,

Jonathan F. Mitchell
Mayor

JFM/smt



CITY OF NEW BEDFORD

CITY COUNCIL

May 23, 2017

ORDERED: that the sum of **THREE HUNDRED SIXTY THOUSAND DOLLARS (\$360,000)** now standing to the credit of the account from

ZOO SALARIES AND WAGES (\$55,000)

PLANNING SALARIES AND WAGES (\$80,000)

MIS SALARIES AND WAGES (\$35,000)

SOLICITORS SALARIES AND WAGES (\$25,000)

ASSESSORS SALARIES AND WAGES (\$15,000)

PURCHASING SALARIES AND WAGES (\$20,000)

AUDITOR SALARIES AND WAGES (\$20,000)

LIBRARY SALARIES AND WAGES (\$40,000)

HEALTH SALARIES AND WAGES (\$20,000)

DEBT SERVICE OTHER CHARGES (\$50,000)

be and the same is hereby transferred and appropriated to as follows:

**GENERAL GOVERNMENT UNCLASSIFIED
CHARGES AND SERVICES \$360,000**

To be certified and approved by the Department Head



OFFICE OF THE CFO


ARI J. SKY
CHIEF FINANCIAL OFFICER

CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

May, 2017

TO: Mayor Jonathan F. Mitchell
New Bedford City Council

FROM: Ari J. Sky 

SUBJECT: FY 2017 Budget Reconciliations

As in past years, there are several departments which will require transfers prior to the end of the year to eliminate deficits resulting from excess expenditures, grant match requirements and budget reductions. Over the course of the year, we have taken a number of steps to restrain the overall rate of expense, including continuation of the hiring slowdown and continuing enforcement of cost controls in the nonpersonnel accounts. As a whole, the General Fund looks to finish the year in a relatively solid position, with a moderate surplus projected in the overall personnel budget. However, it will be necessary to effect several transfers in order to prevent individual department deficits from being raised on next year's tax recap.

Four transfers will be submitted for inclusion in the Mayor's Papers for the May 23, 2017, City Council meeting, utilizing identified balances in various accounts. These items are:

1. Fire Personnel: We have identified a \$620,000 projected deficit in the Fire Department personnel budget, due principally to excess overtime resulting from ongoing attrition and extended vacancies. The department is now nearing full staff and the FY 2018 budget includes a proposed increase to the overtime budget. This deficit will be addressed using projected balances in the Police Department and in Facilities and Fleet Management.
2. Snow Removal – The Snow Removal budget ended the winter season with an \$87,868 deficit. However, expenditures will be reduced by the receipt of a \$17,500 payment from the City's winter weather policy, leaving a net deficit of \$70,368. This deficit will be addressed using a projected personnel balance in the Department of Public Infrastructure.
3. EMS Operating – EMS will end the year with a \$30,000 deficit resulting from workers' compensation costs and another \$30,000 from excess medical supplies costs. This deficit will be addressed utilizing a projected personnel balance in the Health Department.
4. General Government Unclassified – The City Solicitor submitted a memorandum to the City Council in January identifying a need for \$380,000 to balance the Claims & Judgments budget. Savings in other lines of the General Government Unclassified budget will partially offset those costs, reducing the net requirement to \$360,000. This deficit will be addressed through transfers utilizing projected surpluses in several

departments' personnel budgets and modest savings in the Debt Service budget resulting from last month's debt sale.

I should also note that the City Council is considering a \$180,000 Free Cash appropriation to General Government Unclassified to fund the FY 2017 costs of the new AFSCME contract. Additional transfers to support departments' costs will be submitted prior to the end of the fiscal year if the City Council approves the contract.

Thank you for your consideration. Please do not hesitate to contact me if you have any questions or concerns.



CITY OF NEW BEDFORD

OFFICE OF THE CITY SOLICITOR

133 William Street, Room 203
New Bedford, MA 02740-6163

Tel. (508) 979-1460

Fax (508) 979-1515

MEMORANDUM

TO: New Bedford City Council
FROM: Mikaela A. McDermott, City Solicitor
DATE: January 27, 2017
SUBJECT: FY17 Judgments/Claims/Settlements Update

The purposes of this memorandum are to: (1) provide 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 FY17; (2) provide an overview of the claims and litigation pending against the City at the end of FY17 for which the City could have to pay insurance deductibles, judgments, and/or settlements from the Judgments/Claims/Settlements line item in the General Government Unclassified account; and (3) inform the City Council that we will be seeking a transfer in March or April of approximately \$380,000 into the Judgments/Claims/Settlements line item.

I. FY17 Expenditures in Judgments/Claims/Settlements Line Item

The City Council allocated \$150,000.00 to the Judgments/Claims/Settlements line item in the FY17 budget. This was a reduction of \$150,000 from the \$300,000 originally proposed by the Solicitor's Office. As of December 31, 2016, \$126,173.39 of the total \$150,000.00 in the Judgments/Claims/Settlements line had been expended in the following manner:

- \$53,769.62 was paid in deductibles to Trident Insurance Company for 25 matters that are covered by the City's insurance policies. The nature of those 25 insurance matters was as follows:
 - 16 matters were under the Employment Practices liability policy and involved the following departments: School (9), Police (2), Traffic (1), COA (1), Personnel (1), Health (1), Community Services (1)

- 1 matter was under the Educators Liability policy and involved the following department: School (1)
- 8 matters were under the Law Enforcement liability policy and involved the following departments: Police (7), School (1)
- \$45,271.22 was paid to settle 27 bodily injury and property damage claims pending against the city. The nature of these 27 bodily injury and property damage claims was as follows:
 - One claim was for bodily injury and involved the Police Department. The total payment on this claim was \$9,000.
 - The remaining 26 claims were for property damage and involved the following departments: DPI (15), DF&FM (3), Fire (5), Police (2), and Traffic (1). The total payment for these property damage claims was \$36,271.22.
- \$27,132.55 was paid to settle three pending lawsuits against the city. The nature of these three lawsuits was as follows:
 - One lawsuit was for bodily injury and involved EMS. The total payment for this lawsuit was \$7,200.
 - One lawsuit was for property damage and involved the Police Department. The total payment for this lawsuit was \$4,747.
 - One lawsuit was for bodily injury and property damage and involved the Fire Department. The total payment for this lawsuit was \$15,185.55

In addition, a \$265,080.82 workers compensation settlement was paid from the judgments/claims/settlements line item. This settlement involved a former school department employee, who died in May 2016 and had been in a nursing home for nine years. His nursing home and medical expenses had been paid by the state and federal government, but he filed suit in 2013, alleging that they should have been covered by the city through workers compensation and that he should be reimbursed for the amount he personally paid for his care. The city negotiated down its potential exposure with the former employee's estate by approximately \$120,000. The total \$265,080.82 settlement payment included payments to the Commonwealth of Massachusetts (\$107,391.80), which also later sought reimbursement from the City, the former employee's estate (\$150,295.75), and the former employee's attorneys (\$7,393.27). As mentioned in section II below, the city might owe additional funds to the federal government (Medicare) in connection with this matter. Previous updates to the City Council did not include this matter because we had anticipated that any settlement payment would come out of former active employees line item.

Because of the \$265,080.82 workers compensation settlement, there is currently a deficit of approximately \$241,254.21 in the judgments/claims/settlements line item.

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

Below is an overview of the outstanding claims and litigation that might need to be paid from the judgments/claims/settlements line item.

Outstanding Claims

As of December 31, 2016, there were 53 claims pending against the City that were being handled *in-house*.

- Of these 53 claims, 44 were for property damage and involved the following departments: DF&FM (3), DPI (26), Fire (8), EMS (1), Police (6). Another eight claims were for personal injury and involved the following departments: DF&FM (1), DPI (4), Fire (1), and Police (2). An additional claim contained insufficient information to ascertain the department at which it is directed and is currently being investigated.

As of December 31, 2016, there were 24 claims pending against the City that were being handled through the City's *insurance policies*.

- Of these 24 claims, six were for property damage and involved the following departments: Council on Aging (1), DPI (4), and Traffic (1). Another 17 claims were for personal injury and involved the following departments: DF&FM (2), DPI (8), School (3), Traffic (2) and Zoo (2). The remaining insurance claim involved an alleged civil rights violation by the Police Department.

Outstanding Litigation

As of December 31, 2016, there were 39 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.

Of these 39 matters, 22 are covered by *insurance* and the total maximum amount the City could have to pay in deductibles on them is \$373,944.35. The nature of these 22 matters is as follows:

- One matter is under the Auto policy and involves EMS.
- 15 matters are under the Employment Practices liability policy and involve the following departments: Council on Aging (1), School (8), Personnel (1), Traffic (1), Police (1), Health (1), Fire (1), Community Services (1)
- Two matters are under the General Liability policy and involve the School Department.
- Four matters are under the Law Enforcement policy and involve the Police Department.

The remaining 17 matters are *not covered by insurance* and break down as follows:

- One matter alleges discriminatory enforcement by Animal Control.
- One matter involves the potential payment to the federal government for Medicare costs paid for a former School Department employee

- Six matters allege personal injury and involve the following departments: Police (3), DPI (2), and Fire (1).
- Nine matters allege property damage and involve the following departments: Fire (3), DPI (1), School (1), Police (3), and Inspectional Services (1).

III. Proposed Transfer

In the next couple of months, the Solicitor's Office will propose a transfer of approximately \$380,000 to the judgments/claims/settlements line item. This amount was calculated as follows:

- Approximately \$241,254.21 is needed to fill the existing deficit in the judgments/claims/settlements line item.
- We estimate, based on past history, that we will need approximately \$80,000 to pay Trident Insurance Company's bills for the remainder of FY17.
- We estimate that we will need approximately \$20,000 to pay existing litigation matters and approximately \$5,000 to pay existing in-house claims in the remainder of FY17.
- We estimate that we will need \$13,000 to pay a judgment in a wrongful demolition case that was tried in 2015.
- We estimate that we will need approximately \$20,000 to resolve future claims and litigation filed in the remainder of FY2017.