RESOLUTION 2017 - 22

A RESOLUTION APPROVING A SETTLEMENT AGREEMENT AND RELEASE WITH FORMER CITY MANAGER LEHMAN WALKER

WHEREAS, Lehman Walker was appointed City Manager on July 12, 2010; and

WHEREAS, Mr. Walker and the City signed an Employment Agreement dated July 12, 2010 and a Restated Employment Agreement dated February 28, 2012; and

WHEREAS, the Agreements provided that the City Council had the right to terminate Mr. Walker's employment with or without cause, consistent with the City Charter; and

WHEREAS, the Agreements provided that in the event Mr. Walker's employment was terminated without cause after four years of employment, Mr. Walker would be paid severance compensation in an amount equal to six months of salary; and

WHEREAS, the Agreements also provided for vacation leave, among other benefits; and

WHEREAS, former Councilmember Stephen Kraft resigned on May 27, 2016, and a special election was held on November 8, 2016 for the vacant seat; and

WHEREAS, Steve McMahon won the special election, and on November 28, 2016 he took his oath of office after the election results were certified by the Board of Election Commissioners of St. Louis County; and

WHEREAS, Mr. Walker, by letter dated November 17, 2016 from his attorney, alleged that he was defamed by Councilmembers Paulette Carr and Terry Crow, and Steve McMahon, and he demanded $500,000 in return for a resignation from his employment with the City and a release of any and all claims against all Councilmembers and the City, and that if a response was not forthcoming by December 7, 2016, a lawsuit would be filed against the City and the three Councilmembers; and

WHEREAS, the morning of November 28, 2016, Mr. Walker sent an e-mail to the City Council stating that the Finance Director would be Acting City Manager until further notice; and

WHEREAS, Mr. Walker was suspended with pay later on November 28, 2016, pursuant to Resolution No. 2016-27; and

WHEREAS, Mr. Walker filed a Charge of Discrimination on December 1, 2016 with the Missouri Commission on Human Rights and the Equal Employment Opportunity Commission; and

WHEREAS, on December 29, 2016, Mr. Walker moved his furniture and other personal property from his house in University City to a house in metropolitan Memphis, Tennessee that he purchased on September 30, 2016; and

WHEREAS, Mr. Walker filed a Petition for Damages in St. Louis County Circuit Court on January 3, 2017 against the City and the three Councilmembers; and

WHEREAS, the City Council removed Mr. Walker as City Manager on March 1, 2017, pursuant to Resolution Nos. 2017-4 and 2017-6, and ordered that Mr. Walker not receive any severance compensation or any other compensation (including vacation) the City was not legally required to pay; and

WHEREAS, at the time of his removal on March 1, 2017, Mr. Walker was earning an salary of $140,716 and he had 689 hours of accrued vacation leave; and

WHEREAS, the value of six months of severance compensation was $70,368 and the value of his vacation leave was $46,600, for a total of $116,958, which has not been paid to Mr. Walker; and

WHEREAS, Mr. Walker filed a Second Amended Petition for Damages on May 15, 2017 against the City and Councilmembers Paulette Carr, Terry Crow, Steve McMahon and Bwayne Smotherson, alleging breach of his Restated Employment Agreement, employment termination in violation of public policy, defamation, race discrimination and retaliation, by some or all of them; and

WHEREAS, the City and the four Councilmembers have denied the allegations against them; and

WHEREAS, the parties participated in a full day of mediation on September 14, 2017, and reached a tentative settlement; and

WHEREAS, the settlement calls for the City to pay the sum of $114,000 to Mr. Walker and the City's insurer to pay the sum of $36,000 to Mr. Walker's attorney, David Heimos, for legal fees; and

WHEREAS, the settlement calls for Mr. Walker to release all claims against the City and all Councilmembers, and to timely assist and cooperate with the City in connection with any matter within his knowledge or responsibility during his employment as City Manager, including in pending or future litigation, complaints or disputes involving the City and others.

NOW THEREFORE, BE IT RESOLVED, that the attached Settlement Agreement and Release is hereby approved, and the Interim City Manager is authorized to execute it on behalf of the City.

Adopted this 23rd day of October, 2017.

Shelley Welsch - Yes
Shelley Welsch, Mayor

ATTEST:

LaRette Reese
LaRette Reese, Interim, City Clerk

Paulette Carr - yes
Paulette Carr, Councilmember, Second Ward

Terry Crow, Councilmember, First Ward

Michael Glickert, Councilmember, Second Ward

Rod Jennings, Councilmember, Third Ward

Steve McMahon, Councilmember, First Ward

Bwayne Smotherson, Councilmember, Third Ward