

MEMORANDUM

February 9, 2022

TO: Mayor John P. Kahl and Members of the City Council

FROM: Scott A. Brunton, City Attorney

SUBJECT: Settlement Agreement / Foster Litigation Against the City / Tazewell County Case No. 20-L-32

DISCUSSION:

In March 2020, the City was sued by Paul & Kristina Foster regarding the ownership of a retaining wall at the front of their property located in East Peoria and regarding the obligation to maintain this retaining wall (Tazewell County Case No. 20-L-32). The parties have reached a settlement agreement whereby the Fosters will be paid \$60,000 and release the City from all further claims in this matter. The City's insurance carrier has agreed to pay half (\$30,000) of this settlement. The City and the City's insurance carrier have entered into this settlement agreement in order to avoid protracted and expensive litigation in this matter. In addition to receiving a release of all claims from the Fosters, the Fosters will be granted outright ownership of this retaining wall and will be required to repair and replace the retaining wall, while being responsible into the future for all upkeep, maintenance, and repair of this retaining wall.

RECOMMENDATION:

Approval of this Resolution approving this Settlement Agreement and Release of Claims

RESOLUTION NO. 2122-106

**East Peoria, Illinois
_____, 2022**

RESOLUTION BY COMMISSIONER _____

**RESOLUTION APPROVING SETTLEMENT AGREEMENT
AND RELEASE OF CLAIMS**

WHEREAS, in March 2020, Paul and Kristina Foster filed a lawsuit against the City of East Peoria (the "City") in the Tazewell County Circuit Court, which has been designated Case No. 20-L-32; and

WHEREAS, continued litigation of this dispute could be protracted and costly for the City; and

WHEREAS, the parties to the litigation of the dispute have arrived at a Settlement Agreement and Release of Claims; and

WHEREAS, the City's insurance carrier has agreed to pay 50% of the City's settlement costs in this matter; and

WHEREAS, it is in the best interests of the City to conclude this litigation under the terms of the Settlement Agreement and Release of Claims;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, AS FOLLOWS:

Section 1. The recitals set forth above are found to be true and correct.

Section 2. The Mayor and the City Clerk are hereby authorized and directed to execute the Settlement Agreement and Release of Claims on behalf of the City, together with such changes therein as the Mayor in his discretion deems appropriate after consulting with the City Attorney, to resolve and settle Tazewell County Case No. 20-L-32.

Section 3. The City Clerk is further directed to record in the Tazewell County Recorder's Office the License and Use Agreement pertaining to the property that is the

subject of this litigation and that has been executed by the parties pursuant to the Settlement Agreement and Release of Claims.

APPROVED:

Mayor

ATTEST:

City Clerk