



Committee on Litigation

~AGENDA~

Thursday, July, 13, 2017

9:00 AM

Committee Chair: Lyndon Williams

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

www.westchesterlegislators.com

CALL TO ORDER

MINUTES APPROVAL

1. Friday, June 16, 2017 at 8:15 AM

I. ITEMS FOR DISCUSSION

1. **(ID # 9991) Act – Lawsuit Settlement - Mooney v. County of Westchester:**

Forwarding an ACT authorizing the County Attorney to settle the lawsuit of Steven Mooney v. County of Westchester, et al.

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

ADJOURNMENT



Committee on Litigation

~MINUTES~

Friday, June, 16, 2017

8:15 AM

Committee Chair: Lyndon Williams

DRAFT

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

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CALL TO ORDER

Attendee Name	Title	Status	Arrived
Lyndon Williams	Chair	Present	
Gordon A. Burrows	D15 Legislator (Minority Whip)	Present	
David B. Gelfarb	D6 Legislator	Present	
MaryJane Shimsky	D12 Legislator	Absent	

Others In Attendance: LAW: R.Meehan, M.Rotini, F.Jones, J.Castro Blanco; BOL: S.Bass, D.Daly

MINUTES APPROVAL

- Thursday, May 18, 2017 at 8:30 AM

On motion of Legislator Burrows, seconded by Legislator Gelfarb the minutes were approved 3 -0.

I. ITEMS FOR DISCUSSION

1. **ACT-2017-112 Act – Consent Order re: Blind Brook Wastewater Treatment Plant:**

An ACT authorizing the County, by and through the Commissioner of the Department of Environmental Facilities or his designee, to enter into a Consent Order in connection with alleged violations of the County's Chemical Bulk Storage Permit, NY Environmental Conservation Law, and NY State Dept. of Environmental Conservation regulations at the Blind Brook Wastewater Treatment Plant.

County Attorney Meehan asked for authorization to enter into a Consent Order in connection with alleged violations of the County's Chemical Bulk Storage Permit, New York Environmental Conservation Law, and New York State Department of Environmental Conservation (DEC) regulations at the Blind Brook Wastewater Treatment Plant.

County Attorney Meehan discussed the nature of the violations. Chairman Williams asked what the five year inspection report was and why it was not finalized for the DEC? The County Attorney said that would be a discussion for an executive session. The County Attorney said the record keeping mistakes have been corrected.

Minutes Acceptance: Minutes of Jun 16, 2017 8:15 AM (MINUTES APPROVAL)

As a result of negotiations with the DEC an agreement was reached that set a penalty of \$10,000 with \$2,500 due upon the execution of the Consent Order and \$7,500 would be suspended on the condition that the County adheres to the terms and conditions of the Consent Order including the Schedule of Compliance.

Chair Williams asked the County Attorney's office to convey to the County Department of Environmental Facilities to take the necessary steps to avoid this mistake from occurring again in the future.

On motion of Legislator Burrows and seconded by Legislator Gelfarb this item was approved with a vote of 3 to 0.

RESULT: SIGNED BY COMMITTEE

2. (ID # 9991) Act – Lawsuit Settlement - Mooney v. County of Westchester:

Forwarding an ACT authorizing the County Attorney to settle the lawsuit of Steven Mooney v. County of Westchester, et al.

Chief Deputy County Attorney Castro Blanco and Attorney Fay Jones of the Law Department discussed the notice of appeal from the plaintiff. Time has lapsed and as of today, there was no extension requested by the plaintiff.

The capacity of the dorm area where the incident took place is 40 people. This is within keeping of New York State regulations.

The District Attorney investigated the matter and declined to prosecute.

Chairman Williams reiterated his request to have the Department of Corrections come to a meeting since there have been many settlements that involve their Department.

Mr. Castro Blanco mentioned that since the video shows layout of the dormitory area and the location of cameras, for security reasons Mr. Castro Blanco recommended that the committee go in to executive session.

On motion of Legislator Gelfarb and second by Legislator Burrows the committee go into executive session, for security reasons. Motion approved 3-0. The committee went into executive session at 8:34 AM.

On motion of Legislator Burrows and second by Legislator Gelfarb for the committee to reconvene in open session. Motion was approved 3-0. The meeting reconvened at 9:14 AM.

Chairman Williams stated that this item will be held until the next committee meeting.

RESULT: PENDING

Minutes Acceptance: Minutes of Jun 16, 2017 8:15 AM (MINUTES APPROVAL)

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

ADJOURNMENT

Moved by Legislator Burrows seconded by Legislator Gelfarb the Committee adjourned at 9:16 AM.

Minutes Acceptance: Minutes of Jun 16, 2017 8:15 AM (MINUTES APPROVAL)



Robert P. Astorino
County Executive

Office of the County Attorney

Robert F. Meehan
County Attorney

March 13, 2017

Westchester County Board of Legislators
County of Westchester
800 Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Re: Request for authorization to settle the lawsuit of Steven Mooney v. County of Westchester, et al. - Westchester County Supreme Court Index No. 59186/13, in the amount of \$200,000.00 inclusive of attorney's fees.

Dear Honorable Members of the Board:

Attached for your consideration is an Act, which if enacted by your Board, would authorize the settlement of the lawsuit of Steven Mooney v. County of Westchester, et al. in the amount of \$200,000.00, inclusive of attorney's fees.

This matter is pending in the Westchester County Supreme Court. The matter tentatively settled pending this Board's approval of a settlement in the amount of \$200,000.00, inclusive of attorney's fees, at the final pre-trial conference.

Michael H. Joseph, PLLC, 203 East Post Road, White Plains, New York, is representing the plaintiff.

Plaintiff, Steven Mooney, was allegedly assaulted by an inmate on March 13, 2012, while he was incarcerated at the Westchester County Department of Correction. Plaintiff claims that the correction officer assigned to his housing unit was deliberately indifferent to his constitutional right to be free from assaults from other inmates. Plaintiff further alleges that the County was negligent in placing him in the same housing unit as his assailant. Plaintiff suffered facial fractures which required surgical repair. Plaintiff claims to have permanent nerve damage to his face and scarring.

The plaintiff will argue that the County was negligent in housing him in the same housing unit as his assailant. He will further argue that once housed, the officer assigned to the unit was deliberately indifferent to his safety needs by failing to timely respond and intervene in the

assault. The plaintiff will further argue that it was the County's negligence and the officer's deliberate indifference that was the proximate cause of his injuries.

The settlement takes into consideration the uncertainty of litigation and the potential costs of trial, subsequent proceedings and potential appeal and, in the event the plaintiff is successful following a jury trial, the payment of plaintiff's counsel fees. The accompanying Act will authorize settlement of the lawsuit entitled Steven Mooney v. County of Westchester, et al., Westchester County Supreme Court Index No. 59186/13, in the amount of \$200,000.00 inclusive of attorney's fees.

Very truly yours,



Robert F. Meehan
County Attorney

RFM/jhf

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act, which if enacted by your Board, would authorize the settlement of the lawsuit of Steven Mooney v. County of Westchester, et al. Westchester County Supreme Court Index No. 59186/13, in the amount of \$200,000.00.

This matter is pending in the Westchester County Supreme Court. The matter tentatively settled pending this Board's approval of a settlement in the amount of \$200,000.00, inclusive of attorney's fees, at the final pre-trial conference. Michael H. Joseph, PLLC, 203 East Post Road, White Plains, New York, is representing the Plaintiff.

Plaintiff, Steven Mooney, was allegedly assaulted by an inmate on March 13, 2012 while he was an inmate at the Westchester County Department of Correction. Plaintiff claims that the correction officer assigned to his housing unit was deliberately indifferent to his constitutional right to be free from assaults from other inmates. Plaintiff further alleges that the County was negligent in placing him in the same housing unit as his assailant. Plaintiff suffered facial fractures which required surgical repair. Plaintiff claims to have permanent nerve damage to his face and scarring.

The plaintiff will argue that the County was negligent in housing him in the same housing unit as his assailant. He will further argue that once housed the officer assigned to the unit was

ACT NO. -2017

AN ACT authorizing the County Attorney to settle the lawsuit of Steven Mooney v. County of Westchester, et al., Westchester County Supreme Court Index No. 59186/13, in the amount of \$200,000.00, inclusive of attorney's fees

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. The County Attorney is authorized to settle the lawsuit of Steven Mooney v. County of Westchester, et al., Westchester County Supreme Court Index No. 59186/13, in the amount of \$200,000.00, inclusive of attorney's fees.

Section 2. The County Attorney or his designee is hereby authorized and empowered to execute and deliver all documents and take such actions as the County Attorney deems necessary or desirable to accomplish the purpose of this Act.

Section 3. This Act shall take effect immediately.

FISCAL IMPACT STATEMENT

SUBJECT: Settlement: Steven Mooney NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND AIRPORT FUND SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ 200,000

Total Current Year Revenue N/A

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations
 Additional Appropriations Other (explain)

Identify Accounts: 6N Fund: 615 59 0692/3650 4280/04

Potential Related Operating Budget Expenses: Annual Amount N/A

Describe: Settlement of Liability claim

Potential Related Operating Budget Revenues: Annual Amount N/A

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: N/A

Next Four Years: N/A

Prepared by: Jane Hogan Felix

Title: Senior Assistant County Attorney

Department: Law

Date: March 2, 2017

Reviewed By: *[Signature]* 3-13-17

Budget Director

Date: 3/16/17