



City of Gainesville Agenda Report

File #: 2022-604

Agenda Date: October 6, 2022

Department: City Attorney

Title: Brian Pozzi v. City of Gainesville; Case No. 2021-CA-2289; Eighth Judicial Circuit, in and for Alachua County, Florida. 2022-604 (NB)

Description: Approval of a mediated settlement of a claim arising from a traffic accident between a City vehicle and a bicyclist in the amount of \$98,500 in exchange for a full and complete release of liability

Explanation:

On the morning of September 17, 2019, Mr. Pozzi was riding his bicycle east on NW 39th Avenue, approaching Main Street. A City employee was also traveling east on NW 39th Avenue, driving a city vehicle. Mr. Pozzi was allegedly in the bicycle lane when the City employee came up from behind in the right turn lane, preparing to turn right on Main Street, and struck Mr. Pozzi. Mr. Pozzi suffered compression fractures to the thoracic and lumbar regions of his spine, a hairline fracture of the left shoulder, a tear of the labrum in the left shoulder, scrapes and bruises.

The City Attorney's Office and Risk Management Department conducted a thorough evaluation and investigation of this lawsuit. The City employee did not see the bicyclist prior to impact. Mr. Pozzi maintained that he was at all times in the bike lane, and the City employee struck him while crossing over to the right turn lane. In Florida, there is a presumption of negligence against a driver who rear-ends another. Per the application of Florida's limited waiver of sovereign immunity contained in section 768.28, Florida Statutes, the City's liability and authority to settle claims such as this is limited to \$200,000 per person and \$300,000 per incident. After court-ordered mediation, a negotiated settlement was achieved, wherein representatives for the City agreed to recommend a settlement in the amount of \$98,500, subject to the approval of the City Commission of the City of Gainesville, and in exchange Mr. Pozzi will provide a full and complete Release to the City. It is the recommendation of the City Attorney's Office and the Risk Management Department that the case be settled for that amount.

Strategic Connection:

Fiscal Note:

Recommendation:

The City Commission 1) approve the terms of the negotiated settlement agreement; and 2) authorize the City Attorney to settle the claim of Brian Pozzi, arising from an accident that occurred on or about September 17, 2019.