



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Richard Doyle
City Attorney

SUBJECT: *Ward, Debra and Patricia Tapia v.
City, Fire Chief William McDonald,
et al.*
Settlement Agreement

DATE: June 4, 2012

RECOMMENDATION

Approve settlement and authorize the City Attorney to execute a Settlement Agreement and Release with Debra Ward ("Ward") and Patricia Tapia ("Tapia"), providing for payment by City to Ward, Tapia and their attorneys in the amount of \$395,000, as considered by the City Council during Closed Session held on May 15, 2012.

OUTCOME

To resolve a lawsuit brought by Ward and Tapia against the City of San Jose and Fire Chief McDonald alleging gender discrimination, retaliation, a failure to prevent discrimination based on gender, harassment based on gender, intentional infliction of emotional distress, and discrimination based on national origin and marital status, in the Battalion Chief promotional process.

BACKGROUND

Fire Captain Debra Ward and Battalion Chief Patricia Tapia have alleged they were passed over for promotion from Fire Captain to Battalion Chief due to various forms of discrimination. The Plaintiffs claim that the Fire Chief's selection of other individuals from the eligibility list pursuant to the "Rule of 10" was discriminatory, gender biased and biased against single mothers. Tapia was subsequently promoted.

ANALYSIS

Ward and Tapia sought damages claiming lost wages and emotional distress.

In light of the risks and costs inherent in litigation, including exposure to substantial attorney's fees should Plaintiffs prevail in this lawsuit, following mediation with retired Judge Read Ambler, the City Attorney's Office agreed to a settlement for payment of \$395,000 to Ward, Tapia and their attorneys.

HONORABLE MAYOR AND CITY COUNCIL

June 4, 2012

Subject: Ward, Tapia v. City of San Jose, et al.

Page 2

PUBLIC OUTREACH/INTEREST

This memorandum and settlement agreement have been posted on the City's website for the June 19, 2012 agenda.

COORDINATION

The Fire Chief and the City Manager have been advised of the proposed settlement.

BUDGET REFERENCE

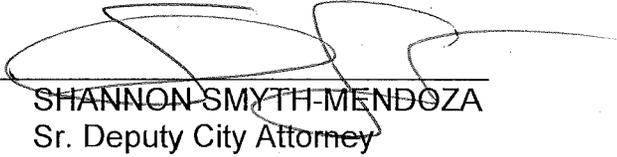
The settlement will be paid out of the City's General Liability Claims reserve fund, Appropriation 0018.

CEQA

Not a Project; File No. PP10-066(h), Settlement Agreement.

RICHARD DOYLE, City Attorney

By


SHANNON SMYTH-MENDOZA
Sr. Deputy City Attorney

cc: Debra Figone, City Manager

For questions please contact RICHARD DOYLE, City Attorney, at (408) 535-1900