

News Release

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For Immediate Release

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City of Champaign Announces Proposed Settlement in Kisica Seets Case

At their February 2, 2016, meeting, the Champaign City Council will consider approving a settlement to a lawsuit filed in federal court by Kisica Seets against the City of Champaign and four police officers (Case No. 15-cv-2154). The proposed \$70,000 settlement would release all claims against the City and the officers and dismiss the suit against three of the four officers. Judgment was entered by agreement without admission of liability by the City and one police officer.

In her lawsuit, Seets alleges that while she was being arrested on April 11, 2014, a Champaign police officer used excessive force against her and that other officers did not act to prevent such use of force.

“Both parties agreed to this disposition,” reports City Attorney Fred Stavins. “The City carefully considered all the facts related to this case, including the costs the City would incur to further defend itself against these allegations. Both sides saw the benefit of avoiding the additional expense of litigation by settling the case at this juncture.”

A copy of the City Council agenda item relative to the proposed settlement is included with this release and is also available on the [City’s website](http://ci.champaign.il.us/council) (ci.champaign.il.us/council). Details about Seet’s arrest and lawsuit were included in information the City released publicly on December 10, 2015, in [response to Freedom of Information Act requests](#) (bit.ly/1OZ1jGw).

COUNCIL BILL NO. 2016- 019

A RESOLUTION

AUTHORIZING SETTLEMENT
(Seets vs. City of Champaign, Rush, et.al.)

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHAMPAIGN,
ILLINOIS, as follows:

Section 1. That the settlement of the claim by Kısica Seets as set forth in Case No. 15-cv-02154 is authorized in the amount of \$70,000 as set forth in the release attached to this Council Bill which is hereby approved for settlement of all issues in conjunction with the aforementioned claim.

Section 2. That the City Manager and City Attorney are hereby authorized to execute such documents and take such actions as are necessary to implement the settlement of the claim.

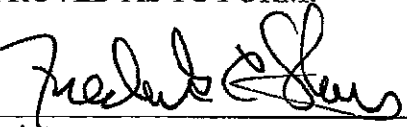
COUNCIL BILL NO. 2016- 019

PASSED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

APPROVED AS TO FORM:



City Attorney

RELEASE OF ALL CLAIMS

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, KISICA SEETS, being of lawful age, for and in consideration of a payment to be made of Seventy Thousand and 00/100 Dollars (\$ 70,000.00), does hereby and for her heirs, executors, administrators, successors and assigns fully release, acquit and forever discharge THE CITY OF CHAMPAIGN, THE CHAMPAIGN POLICE DEPARTMENT, AND ALL INDIVIDUAL CITY OF CHAMPAIGN POLICE OFFICERS, INCLUDING KRISTINA HAUGEN, MARSHALL HENRY, MATT RUSH AND CULLY SCHWESKA, and their agents, servants, successors, heirs, executors, administrators, associates, employees, and all other persons, corporations, firms, associations or partnerships ("Releasees") of and from any and all claims, actions, causes of action, demands, rights of action of whatsoever kind or nature at law or in equity, including the claims in U.S. District Court, Case No. 15-cv-2154 (C.D.Ill.), damages, controversies, costs, loss of service, loss of society, expenses and compensation whatsoever, which the undersigned now has or which may hereafter accrue against said Releasees on account of or in any way growing out of any and all known and unknown, foreseen and unforeseen bodily and personal injuries, property damage, violations of constitutional rights, and/or state law claims, and the consequences thereof resulting or to result from the incident, casualty or event which occurred on or about April 11, 2014, which resulted in her arrest.

It is further understood and agreed that the payment resolves the entirety of the claims in U.S. District Court, Case No. 15-cv-2154 (C.D.Ill.), in that the \$70,000.00 payment: (1) satisfies the judgments, without admission of liability, entered against OFFICER MATT RUSH AND THE CITY OF CHAMPAIGN in the amounts of \$20,049.00 and \$5,051.00, respectively; (2) settles plaintiff's statutory attorney's fees and costs for \$43,727.99; and (3) settles the remaining claims against the OFFICERS KRISTINA HAUGEN, MARSHALL HENRY AND CULLY SCHWESKA for \$1,172.01. The undersigned declares and represents that she will execute and file a stipulation of dismissal, with prejudice, of the remaining claims against OFFICERS KRISTINA HAUGEN, MARSHALL HENRY AND CULLY SCHWESKA in U.S. District Court, Case No. 15-cv-2154 (C.D.Ill.), and such other and further documents, as may be reasonably requested by the City of Champaign, Illinois for the sole purpose of effectuating the agreements herein within seven (7) business days after receipt of the settlement proceeds.

It is understood and agreed that this settlement is the compromise of doubtful and disputed claims, that the payment of the above-stated consideration is full accord and satisfaction of disputed claims, that the payment made is not to be construed as an admission of liability on the part of the parties hereby released, and that said Releasees deny liability therefore and intend merely to avoid litigation and buy their peace. It is understood and agreed that this is a Release of any and all claims against any individual City of Champaign employee, including but not limited to, any City of Champaign police officers, and although no payments are being made by any City employee, there may be City employees who are third party beneficiaries of this Release.

It is understood and agreed that the terms of this Release shall become effective upon the City Council's formal approval of the Release and receipt of payment of the settlement proceeds. The Release will be presented to the City Council for formal approval as soon as practicable. Upon

approval by the City Council, the City will make all good faith efforts to issue settlement proceeds payable within 14 days, or as soon as otherwise practicable. Such payment shall be made payable to KISICA SEETS and HALE LAW LLC.

The undersigned hereby declares and represents that the injuries sustained, losses or expenses are or may be permanent, progressive and/or indefinite, and that recovery therefrom is uncertain and indefinite and in making this Release, it is understood and agreed that the undersigned relies wholly upon the undersigned's judgment, belief and knowledge of the nature, extent, effect and duration of said injuries and liability therefore and this release is made without reliance upon any statement or representation of the party or parties hereby released or their representatives or by a physician or surgeon by them employed.

The undersigned declares and represents that the above-stated consideration is the sole and only consideration for this release and that no promise, inducement or agreement not herein expressed has been made to the undersigned and that this Release contains the entire agreement between the parties hereto and that the terms of this Release are contractual and not a mere recital.

The undersigned declares and represents that if there are liens or rights against the funds paid in consideration for this Release, she has not made any assignment or transfer of any right, claim, demand, cause of action or other matter covered by this Release as set forth herein. In addition, the undersigned agrees to indemnify the Releasees and their agents and insurers against any claims of lien against said funds whether known or unknown.

The undersigned declares and represents that she has not filed any claim or lawsuit against any other party with any court agency or other administrative or arbitral entity connected in any way with the incident, casualty or event which occurred on or about April 11, 2014.

The undersigned declares and represents that this Release was negotiated at arm's-length and entered into freely by the undersigned, with the advice of counsel. In the event any ambiguity exists in any provision of this Release, such ambiguity is not to be construed by reference to any doctrine or statute calling for ambiguities to be construed against the drafter of the document.

It is understood and agreed that the provisions of this release, including, without limitation, the representations, warranties and covenants made herein, shall survive the execution of this Release and the performance by the undersigned of her respective obligations under this Release.

It is understood and agreed that this Release constitutes the entire agreement of the parties and supersedes all prior contemporaneous agreements and understandings and any and all prior correspondence, conversations, or memoranda are merged herein and replaced hereby.

It is understood and agreed that no part or provision of this Release may be changed, modified, waived, discharged or terminated except by instrument in writing signed by the party against whom enforcement of such change, modification, waiver, discharge or termination is sought. The failure of a party to seek redress for violation of, or to insist upon strict performance of, any provision of this Release shall not be a waiver of that provision by the party or estop that party from asserting fully any and all of its rights under this Release.

It is understood and agreed that this Release will be governed by the laws of the State of Illinois without regard to its choice of law provisions. The parties agree that the state and federal courts located in the State of Illinois shall have exclusive jurisdiction in any action, suit or proceeding based on or arising out of this release. Accordingly, the parties hereby: (a) submit to the personal jurisdiction of such court; (b) consent to the service of process in connection with any action, suit or proceeding; and (c) waive any other requirement (whether imposed by statute, rule of court or otherwise) with respect to personal jurisdiction, venue, or service of process.

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND FULLY UNDERSTANDS IT.

Signed, sealed and delivered this 21 day of January, 2016.

CAUTION: READ BEFORE SIGNING

Kisica Seets
KISICA SEETS

STATE OF ILLINOIS)
) SS.
COUNTY OF CHAMPAIGN)

On the 21 day of January, 2016, before me personally appeared KISICA SEETS, to me known to be the person named herein and who executed the foregoing Release and acknowledged to me that she has read the foregoing Release and understands the contents thereof and that he voluntarily executed the same.

Alma Erdmann
Notary Public



Approved as to form:

[Signature] 1.21.16
Attorney for Plaintiff



REPORT TO CITY COUNCIL

FROM: Dorothy Ann David, City Manager *David*
DATE: January 29, 2016
SUBJECT: EXPLANATION OF COUNCIL BILL NO. 2016 - 019

A. Introduction: The purpose of this Council Bill is to authorize settlement of the federal civil rights lawsuit filed by Kisica Seets against the City and four police officers in return for a total payment of \$70,000. This settlement would conclude all claims in lieu of further litigation.

B. Recommended Action: The Administration recommends approval of this Council Bill.

C. Background: This claim results from an incident involving an arrest. The incident occurred on April 11, 2014 in the area of 421 Fairview Drive wherein Police Officer Matt Rush allegedly performed a knee strike on the claimant after she was handcuffed. Police were on the scene because they were called relative to a fight between Ms. Seets and her sister. Ultimately, on November 4, 2014, Kisica Seets plead guilty to aggravated battery to a police officer and was required, as part of the sentence, to write a letter of apology to one of the police officers for spitting on her.

Typically when claims come in, the City Attorney and Risk Manager and others review the claims to see if there is potential City liability. If it is clear that the City could face liability for the claim, the City Attorney and Risk Manager determine possible City exposure. Exposure is the key word in evaluating claims. Many claims could be litigated, and the City (or its employees) exonerated, however frequently the cost of litigating a claim would exceed the amount of possible settlement. Exposure also includes, as in all cases, some likelihood that the City or its employees could be found liable for damages alleged by the claimant.

In July, 2015, Kisica Seets filed a civil rights case in federal court against the City, Officer Matt Rush, and three other officers. The case against Officer Rush centered on excessive force. The case against the other officers was centered in the failure to prevent the use of force. After the case was filed, the City, through the City's outside counsel, made an offer of judgment, without admission of liability, of \$20,049 against Matt Rush and \$5,051 against the City. The offer of judgment was accepted and judgment, without admission of liability, was entered on January 15, 2016.

The judgment in a civil rights case means that the Defendants, City and Rush, were required to pay the Plaintiff's attorney's fees. In an effort to reduce the amount of fees payable for further litigation and to secure dismissal of the case against the other three police officers, the City and the Plaintiff have agreed to pay \$43,727.99 for fees and costs assessable in this case. This

settlement includes the dismissal of the case against the remaining police officers in return for payment of \$1,172.01. The City has previously released information relative to this incident giving rise to this case in response to a Freedom of Information Request which is posted on the City's website. (<http://ci.champaign.il.us/departments/police/foia%20-%20response/>)

D. Alternatives:

1. Approve the Council Bill.
2. Do not approve the Council Bill and provide other guidance to the Administration.

E. Discussion of Alternatives:

Alternative 1 would authorize the City's representatives to finalize the settlement.

a. Advantages

- Concludes the claim immediately, saving claimant and City personnel from the rigors of more litigation.
- Removes the uncertainty of the outcome of a trial and appeal.
- Saves both sides the expenses of more depositions, further hearings, discovery-related matters, trial, and possible additional appeal.
- Recognizes the interest of both parties in the settlement.

b. Disadvantages

- Expenditure of funds by the City.
- May be perceived by some persons as unwarranted and by others as too small a settlement.

Alternative 2 would not approve the Council Bill.

a. Advantages

- If the case went to trial concerning the additional officers and there was no monetary verdict against the officers, this could result in less cost to the City. Less cost is not a likely scenario.

b. Disadvantages

- Additional expenses incurred in the defense of the case which are not recoverable could reduce value of an outcome in which there was a low (or no) monetary verdict against the remaining officers.
- If a trial results in a higher verdict, total costs could also be increased by additional litigation expenses.

F. Community Input. No community input was requested on the settlement, though the public will have an opportunity to comment at the meeting.

G. Budget Impact: The settlement in the amount of \$70,000 is available from the Retained Risk Fund. In addition to the \$70,000, the City has incurred approximately \$20,000 in attorney's fees to defend the City and police officers in this case.

H. Staffing Impact: The staffing impact is within the allotted staffing resources. The City legal staff has spent in excess of 25 hours in relation to this case. The Police Department and the City Manager's Office has additionally devoted hundreds of hours of staff time related to issues surrounding this case, including responding to FOIA requests.

Prepared by:



Frederick C. Stavins
City Attorney