

RESOLUTION NO. 1554

A RESOLUTION AUTHORIZING, APPROVING AND RATIFYING THE SETTLEMENT OF DISPUTED CLAIMS IN THE MATTER OF RICHARD AND ELEANOR BOECKMAN VS. CITY OF WILSONVILLE, CLACKAMAS COUNTY CIRCUIT COURT CASE NO. 97-11-023.

WHEREAS, in the matter of Richard and Eleanor Boeckman v. City of Wilsonville, Clackamas County Circuit Court Case No. 97-11-023, the Boeckmans initially sought damages against the City for up to \$2.7 million and subsequently reduced their claims to \$326,000 for transfer of public storm waters onto their property and the City disputed said claims and damage amounts; and

WHEREAS, the City Council has been represented by and through its City Attorney, Michael E. Kohlhoff, and outside counsel James P. Martin of Hoffman, Hart & Wagner; and

WHEREAS, the City Council having authorized the City's attorneys to defend against these claims and, as part of defending the claims, to negotiate settlement of such disputed claims when and if appropriate, and to make recommendation regarding same; and

WHEREAS, the case came on for trial May 3, 1999, and the parties having gained permission of the Court to continue settlement negotiations, and the attorneys having recommended settlement of the disputed claims in which the City would pay to the Boeckmans and their attorney, Michael J. Martinis, the sum of \$160,000.00, with a payment of \$110,000 by May 25, 1999 and \$50,000 by July 15, 1999, unless City determines to pay all by May 25, 1999, said sum is inclusive of all damages, attorney fees, expert fees, and other fees, costs and disbursements; the Boeckmans are to grant and convey to the City a drainage easement to run with the land for public stormwater for a 25-year storm event (City's current standard, but also provides this standard is not to create a grandfather right should the City change its standard) with the City's right to enter said land to maintain said easement and the Boeckmans' right to relocate the

easement should development occur, and certain other provisions should stormwater piping take the place of natural channels; and the Boeckmans would execute a release of claims.

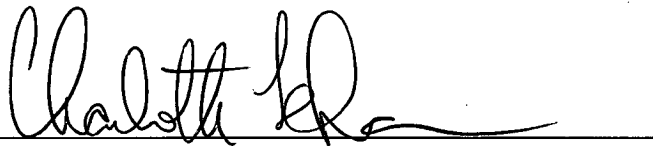
NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The disputed claims settlement as set forth and recited above is authorized, approved and, to the extent heretofore entered into, ratified; and

2. The City Attorney, Michael E. Kohlhoff, and outside attorney, James Martin, are authorized to do all things necessary to complete documentation of the aforementioned settlement and release of claims and caused to be paid to the Boeckmans and their attorney Michael J. Martinis the sum of \$160,000 as recited above by May 25, 1999; and the City Manager is authorized to accept on behalf of the City the aforementioned drainage easement and, if necessary, the City Manager is authorized to execute any other settlement documents in this matter.

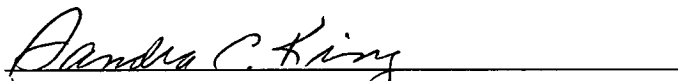
3. To transfer \$160,000 of appropriations from General Fund Contingency to the Non-Departmental Program Materials and Services Category.

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof on the 17th day of May, 1999.



CHARLOTTE LEHAN, Mayor

Attest:


SANDRA C. KING, CMC, City Recorder

SUMMARY OF VOTES:

Mayor Lehan	<u>Yes</u>
Councilor Helser	<u>Yes</u>
Councilor Kirk	<u>Yes</u>
Councilor Barton	<u>Yes</u>
Councilor Holt	<u>Yes</u>