



## Legislation Text

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File #: 20-0077, Version: 1

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### Resolution to Adopt a Formal Claim Settlement Authority Policy

#### **PURPOSE/BACKGROUND:**

A formal Resolution from City Council adopting a settlement authority policy for all types of claims against the City regardless of funding source available for payment is advisable to promote effective management of resources and efficiency in resolution of claims.

#### **Discussion:**

The City established a self-insurance program to provide liability coverage in order to protect the assets of the City at a manageable cost. At a special meeting of the Hampton City Council on February 12, 2003, City Council adopted an informal policy providing guidance to the City Attorney and Risk Manager on settlement authority for resolution of claims against the City, its employees and officers. However, City Council did not adopt a resolution formalizing this policy. This informal policy, which is still currently used, provides as follows:

1. Claims over \$100,000 - City Council must authorize settlement before settlement is reached; no formal Council action is required
2. Claims up to and including \$100,000 - the City Attorney and Risk Manager are authorized to settle with reporting of the claim and its settlement to Council
3. Claims over \$50,000 - City Attorney and Risk Manager inform Council of settlement after the fact
4. Claims relating to appointed and elected officials - City Attorney must inform Council immediately.

This policy and the 2003 discussion at the special meeting was exclusively focused on claims where Risk Management would be involved and any settlement paid out of the Risk Management Fund. However, the City could be subject to other types of claims that would not fall under the Risk Management fund. Most notably, contract claims about which City Council has not previously given direction on authority limits. Contracts claims are not paid out of the Risk Management Fund but instead often from project funds or department budgets. In the absence of clarification on her authority, the City Attorney with the assistance of the impacted department would need to present every contract claim to City Council in order to settle such claim whether prior to or following the initiation of litigation.

#### **Impact:**

**Recommendation:**

Recommend that Council approve this Resolution.

**WHEREAS**, the City Council at a special meeting on February 12, 2003 authorized the City Attorney to settle claims to be paid out of the Risk Management Fund of a certain amount and set forth guidance on notification requirements;

**WHEREAS**, this informal authorization and guidance was not formalized through a resolution of City Council;

**WHEREAS**, the prior authorization and guidance did not address claims not covered by the Risk Management fund including contract claims;

**WHEREAS**, the City Council wishes to provide formal authorization to settle and clarify notification requirements all types of claims regardless of settlement funding source;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HAMPTON, VIRGINIA:**

1. That Hampton City Council adopts the following as its Claim Settlement Policy applicable to all claims, suits, and actions asserted against the City, its officers, employees, agents, or volunteers;

i. Settlement of all claims in an amount exceeding \$100,000 must be authorized by City Council before settlement is reached but, no formal Council action is required. In determining the threshold of \$100,000 on claims stemming from contracts, claims that can be resolved within the funds allocated for the contract and/or project do not require authorization by City Council in order for City Attorney to settle. Any contract settlement which will exceed the funds allocated for the contract and/or project by more than \$100,000 will require Council authorization before settlement;

ii. The City Attorney and Risk Manager, in consultation with the City Attorney, are authorized to settle claims up to and including \$100,000 and shall report any settlement exceeding \$50,000 to City Council; and

iii. The City Attorney is required to report to Council immediately any claims which relate to appointed and/or elected officials.

2. That nothing in this policy shall prevent the City Attorney from seeking guidance from City Council regarding settlement of any claim regardless of its value.