



Metropolitan Nashville and Davidson County, TN

Legislation Details (With Text)

File #: RS2022-1911 **Name:**

Type: Resolution **Status:** Passed

File created: 12/9/2022 **In control:** Metropolitan Council

On agenda: 12/20/2022 **Final action:** 12/20/2022

Title: A resolution authorizing the Metropolitan Department of Law to compromise and settle the claims of Joshua Lipscomb against the Metropolitan Government of Nashville and Davidson County in the amount of \$450,000.00, with said amount to be paid out of the Judgments and Losses Fund and the Nashville Fire Department’s operating budget.

Sponsors: Kevin Rhoten

Indexes:

Code sections:

Attachments: 1. Letter to Metro Clerk

Date	Ver.	Action By	Action	Result
12/22/2022	1	Mayor	approved	
12/20/2022	1	Metropolitan Council	adopted	
12/19/2022	1	Budget and Finance Committee	approved	
12/13/2022	1	Metropolitan Council	filed	

A resolution authorizing the Metropolitan Department of Law to compromise and settle the claims of Joshua Lipscomb against the Metropolitan Government of Nashville and Davidson County in the amount of \$450,000.00, with said amount to be paid out of the Judgments and Losses Fund and the Nashville Fire Department’s operating budget.

WHEREAS, Joshua Lipscomb filed a lawsuit against the Metropolitan Government alleging First Amendment retaliation arising out of his discipline for Twitter statements made in February 2022 and challenging certain Nashville Fire Department policies; and,

WHEREAS, after investigation, the Metropolitan Department of Law believes that the settlement terms listed in Section 1 are fair and reasonable and in the best interest of the Metropolitan Government and recommends that any and all claims or causes of action brought or that could have been brought by Joshua Lipscomb related to his employment with the Fire Department be compromised and settled for \$450,000.00, plus reasonable costs, and that this amount be paid from the Judgments and Losses Fund and the Nashville Fire Department’s operating budget.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1: The Metropolitan Department of Law is authorized to compromise and settle the claims of Joshua Lipscomb for the sum of \$450,000.00, plus reasonable costs, with said amount to be paid from the Judgments and Losses Fund and the Nashville Fire Department’s operating budget.

Section 2: This resolution shall take effect from and after its adoption, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

On February 2, 2022, Joshua Lipscomb, a Nashville Fire Department (“NFD”) employee, tweeted the following:

“I hate feeding into the illusion that America’s government and existence is legitimate so I’m no fan of voting.

But the majority of Nashville city council is white supremacists. I know it’s boring but millennials HAVE to start caring about local elections

These folk want us dead”

On February 22, 2022, the NFD informed Mr. Lipscomb that his statements violated several internal policies. Mr. Lipscomb attended a disciplinary hearing and, on March 18, 2022, was suspended without pay for 16 days. He was previously suspended for eight days in 2020 for harassing a local business owner on social media. Mr. Lipscomb filed suit via 42 U.S.C. § 1983 alleging that his 2022 discipline violated several constitutional rights.

A preliminary injunction was entered by the chancery court against the Metropolitan Government related to the Courtesy and Derogatory Notices sections of the NFD Operational and Procedural Guideline 1.24. The NFD is revising this policy as well as the NFD social media policy in light of evolving current jurisprudence governing public employees’ free speech rights.

Mr. Lipscomb claims damages for the violation of his First Amendment rights. If he were to prevail on this claim, a jury would award compensatory damages at its discretion. He also claims back pay for the 16-day suspension totaling \$4,053.12. In addition, under 42 U.S.C. § 1988, Mr. Lipscomb’s attorneys would be entitled to recover their fees if he were to prevail in his lawsuit. It is likely that those fees could total at least \$200,000 at this point in the case and would increase if litigation continues.

The Department of Law recommends settlement of Mr. Lipscomb’s claims for \$450,000.

Fiscal Note: This settlement would be paid from the Judgment and Losses Fund in the amount of \$425,000 and \$25,000 from the Nashville Fire Department operating budget. This settlement would be the 2nd payment from the Judgment and Losses Fund in FY23 for a cumulative total of \$429,339. The fund balance would be \$17,262,866 after this payment.