



Legislation Details (With Text)

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Title: Resolution Approving Settlement Agreement between the City of Greensboro and the Guilford County Board of Education

Sponsors:

Indexes:

Code sections:

Attachments: 1. Demand Letter from Attorney Bryant re Clear Proceeds to Guilford BOE 6.15.17.pdf, 2. Guilford BOE and City of Greensboro Settlement re Clear Proceeds from Penalties 1.04.2018.pdf, 3. Final Worksheet Clear Proceeds 1.04.2018.pdf, 4. 18-0007 Res Settlement Agt BOE and COG.pdf

Date	Ver.	Action By	Action	Result
1/16/2018	1	City Council	adopt	Pass

Resolution Approving Settlement Agreement between the City of Greensboro and the Guilford County Board of Education

Department: Legal

Meeting Date: January 16, 2018

Public Hearing: No

Advertising Date/By: N/A

Contact 1 and Phone: Tom Carruthers, City Attorney, 373-2320

Contact 2 and Phone: Jennifer Schneier, Assistant City Attorney, 373-2320

PURPOSE:

To approve a Settlement Agreement between the City of Greensboro and the Guilford County Board of Education.

BACKGROUND:

Article IX, §7 of the NC Constitution provides that a local board of education is entitled to receive the proceeds of all penalties, forfeitures, and fines received by a local municipality. Such monies are commonly referred to as “clear proceeds” of penalties. In fairly recent litigation from a neighboring jurisdiction, the court clarified the types of monies to be classified as clear proceeds. (*Shavitz v. City of High Point*, 177 NC App. 465 (2006)).

Earlier this year, the Guilford County Board of Education contacted the City of Greensboro to demand payment of the clear proceeds owed to it under the North Carolina Constitution and *Shavitz*. The clear proceeds are derived from late listing tax penalties, fire code violations, non-permitted use of water, and handicap parking fines.

The Legal Department negotiated a proposed settlement with the Guilford County Board of Education which

resulted in a reduction of \$452,080.95 in the amount demanded. The late listings penalties amount of \$463,974.34 will be paid from the General Fund in January 2018. The amount of the other penalties, which have now been determined to be \$1,057,069.76, will be expensed with the settlement recorded in the General Risk Retention Fund; 50% of the liability, \$528,534.88, will be paid December 2018, and 50% of the liability, \$528,534.88, will be paid December 2019.

Moving forward, the City will pay the amounts owed on an annual basis, less a 10% administrative fee. Please refer to the attached worksheet.

BUDGET IMPACT:

Funds for the first payment were previously booked as a liability for fiscal year 16-17. No additional action is needed.

RECOMMENDATION / ACTION REQUESTED:

It is recommended that City Council approve the Settlement Agreement between the City of Greensboro and the Guilford County Board of Education.