

**CITY OF RIVIERA BEACH CITY COUNCIL
AGENDA ITEM SUMMARY**

MEETING DATE: December 2, 2009

AGENDA ITEM SUMMARY NO. L09-121-1

- AWARDS / PRESENTATIONS / PETITIONS
- CONSENT
- PUBLIC HEARING
 - ORDINANCE ON SECOND READING
 - ORDINANCE ON FIRST HEARING

- REGULAR
- RESOLUTION
- DISCUSSION & DELIBERATION
- BOARD APPOINTMENT
- WORKSHOP

TITLE/SUBJECT: Resolution authorizing settlement in the matter of Denise Baker and Warren Baker vs. City of Riviera Beach - Case No. 502008CA028069XXXMBAF, in the total amount of \$40,000.

RECOMMENDATION / MOTION: Approve resolution settling the case for \$40,000.

Assistant City Manager	Library
* City Attorney <i>DKR 11/18/09</i>	Marina
* City Clerk <i>[Signature]</i>	Police
Community Development	Public Works
* Finance <i>JL 11-18-09</i>	Purchasing
Fire	* Recreation & Parks <i>[Signature]</i>
Human Resources	Water & Sewer
Information Technology	

APPROVED BY CITY MANAGER: *[Signature]*

DATE: 11/20/09

Originating Dept. City Attorney's Office <i>[Signature]</i>	Costs: <u>\$40,000.00</u>	City Council Actions: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/conditions <input type="checkbox"/> Denied _____ <input type="checkbox"/> Tabled to _____ <input type="checkbox"/> Referred to Staff _____
User Dept. City Attorney's Office	Current FY: <u>\$40,000.00</u> Funding Source: <input type="checkbox"/> Capital Improvement <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Other:	Attachments: 1. Resolution
Advertised: Date: Paper: <input checked="" type="checkbox"/> Not Required	Gallagher Bassett Services, Inc. Budget Account Number:	
Affected Parties <input type="checkbox"/> Notified <input checked="" type="checkbox"/> Not Required		

SUMMARY AND BACKGROUND: On September 16, 2006, Mr. and Mrs. Baker attended their son's football game at the Wells Recreation football field. While sitting in the bleachers, Ms. Baker attempted to move, and as she stepped down, the aluminum seat tilted causing her to fall to the ground flipping and landing on her back. Upon investigation, it was determined that a support beam underneath the bleachers was broken. Thereafter, the City replaced the bleachers.

On September 25, 2008, Plaintiffs filed suit against the City, alleging, among other things, injury in and about Ms. Baker's body and extremities; aggravation of a known or unknown pre-existing condition or disease; lost wages, and a loss of consortium with Mr. Baker. Court ordered mediation was held in June 2009, but the case did not reach a settlement until further discovery was conducted. The City Council held a closed executive session on November 5, 2009, to discuss the case and strategies for settlement. Thereafter, an agreement was reached to settle the case for \$40,000 inclusive of attorney's fees and costs.

The settlement is subject to City Council approval. Staff recommends approval.

Item No.03

EXHIBIT A-1

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact: **Denise Baker vs. City of Riviera Beach**

Fiscal Years	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Capital Expenditures	<u>\$ 40,000</u>	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (City)	_____	_____	_____	_____	_____
In-Kind Match (City)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>\$40,000</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

NO. ADDITIONAL FTE POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes _____ No _____
 Budget Account No.: Fund _____ Dept/Div. _____ Org. _____ Object _____

Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:
Loss Fund/Liability Account

C. Departmental Fiscal Review: *Pamela H. Ry...*

III. REVIEW COMMENTS

A. Finance Department and/or Purchasing/Intergovernmental Relations/Grants Comments:

[Signature] _____
 Finance Department *11-18-09* Purchasing and Grants

B. Other Department Review:

 Department Director

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING SETTLEMENT IN THE MATTER OF DENISE AND WARREN BAKER VS. THE CITY OF RIVIERA BEACH, CASE NO. 502008 CA028069XXXMBAF; AUTHORIZING GALLAGHER BASSETT TO MAKE PAYMENT IN THE AMOUNT OF \$40,000 AS COMPLETE SETTLEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Denise Baker was involved in a bleacher accident at the Wells Recreation Center football field; and

WHEREAS, the Bakers filed a lawsuit against the City in 2008, alleging, among other things, injury to Ms. Baker's body which was caused by the City's failure to maintain the bleachers; and

WHEREAS, after extensive discovery Plaintiffs have agreed to settle the case for \$40,000.

NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

SECTION 1. That settlement in the matter of *Denise Baker and Warren Baker, vs. City of Riviera Beach*, Case No. 50 2008CA028069XXXMBAF is hereby approved in the total amount of \$40,000, which includes attorney's fees and costs.

SECTION 2. That Gallagher Bassett Services, Inc., is authorized to make payment on behalf of the City, after receiving a general release from the Bakers.

SECTION 3. That this resolution shall take effect immediately upon its passage and approval by the City Council.

PASSED and APPROVED this _____ day of December, 2009.

RESOLUTION NO. _____
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APPROVED:

THOMAS A. MASTERS
MAYOR

DAWN S. PARDO
CHAIRPERSON

ATTEST:

CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK

JUDY L. DAVIS
CHAIR PRO TEM

BILLIE E. BROOKS
COUNCILPERSON

TONYA DAVIS JOHNSON
COUNCILPERSON

SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: _____

SECONDED BY: _____

D. PARDO _____

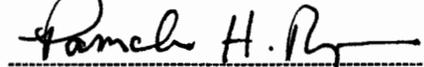
J. DAVIS _____

B. BROOKS _____

T. JOHNSON _____

S. LOWE _____

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 11/18/09