

**TROY CITY COUNCIL
FINANCE MEETING AGENDA
January 7, 2021
6:30 P.M.**

Pledge of Allegiance
Roll Call
Approval of Minutes
Presentation of Agenda
Public Forum (*see end of agenda for instructions)

LOCAL LAWS

ORDINANCES

1. Ordinance Authorizing Settlement Of Claim, To Wit: Argonaut Insurance Company, Plaintiff, V. City Of Troy, New York, Defendant, U.S. District Court, Northern District Court Of New York (Council President Mantello) (At The Request Of The Administration)

RESOLUTIONS

1. Resolution Setting The Dates Of The Regular Monthly Meetings Of The Troy City Council (Council President Mantello)
 2. Resolution Waiving Certain Filing Requirements In 2021 Because Of The Covid-19 Pandemic (Council President Mantello)
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***PUBLIC FORUM**

Due to the current COVID-19 crisis and pursuant to Governor Andrew Cuomo’s Executive Order No. 202.1, this meeting shall be held remotely via videoconference and live-streamed on the City Council’s [YouTube channel](#). Troy residents who wish to comment during the public forum at the beginning of the meeting must have the ability to join the Zoom meeting via computer or phone and will be required to pre-register for the meeting. The link to register for the meeting will be posted at least 24 hours before the meeting on the Council [Agenda and Minutes](#) page. You must register for the meeting by 3 pm on the day of the meeting.

Per the City Council, written comments will not be read aloud at this meeting but will be added to the meeting minutes. Written comments to be added to the meeting minutes should be sent to maria.drogan@troyny.gov and must be received by 3 pm on the day of the meeting. You must include your full name and residential address, as required by Council rules. Written comments received after 3 pm shall be treated as correspondence and forwarded to the Council for their review.

**ORDINANCE AUTHORIZING SETTLEMENT OF CLAIM, TO WIT:
ARGONAUT INSURANCE COMPANY, PLAINTIFF, V. CITY OF TROY, NEW YORK,
DEFENDANT, U.S. DISTRICT COURT, NORTHERN DISTRICT COURT OF NEW YORK
CIVIL ACTION NO. 1:19-CV-1247**

The City of Troy, in City Council convened, ordains as follows:

- Section 1.** The above named plaintiff commenced an action in the United States District Court for the Northern District of New York against the City of Troy, alleging that the City breached the Retained Limit Policy Insurance Agreement that was in effect for the period March 13, 2016 to March 13, 2017, by not paying \$100,000 of the City's \$500,000 retained limit toward the defense and agreed settlement of the case of Brothers v. City of Troy, Rensselaer County Supreme Court Case Index No. 255157.
- Section 2.** The Corporation Counsel is authorized to settle the above litigation in a manner that conforms in all material respects with and in the amount identified in the attached Exhibit "A" (Mediator's Memorandum of Settlement Agreement dated September 1, 2020). The Corporation Counsel shall obtain a duly executed Stipulation of Discontinuance and Release in full satisfaction of the claim prior to payment.
- Section 3.** The Comptroller is authorized and directed to make, issue, and countersign the required draft as outlined in the Release and Settlement Agreement, said sum to be payable out of the Judgments and Claims Account.
- Section 4.** This Ordinance shall take effect immediately.

Approved as to form, _____, 2021

Richard T. Morrissey, Corporation Counsel

MEMORANDUM IN SUPPORT

This settlement arises out of a dispute with the City's excess insurer regarding payment of the City's self-insured retention of \$500,000 toward the defense and settlement of the case of *Brothers v. City of Troy*, Rensselaer County Supreme Court Case Index No. 255157. By Ordinance 2019-95, the City Council approved settlement of the *Brothers* case in the total amount of \$1,300,000, with payments by the City of \$317,000, and by Argonaut of \$983,000. The City had already spent \$83,000 in attorney's fees defending the case. However, at some point, Argonaut (as was its right under the insurance contract) took over the defense of the claim and substituted its own attorney in place of the City's outside counsel. Hence, in reality, the City only paid \$400,000 (\$317,000 + \$83,000) toward the defense and settlement of the *Brothers* case. After the *Brothers* case settled, Argonaut brought suit against the City in federal court under diversity jurisdiction alleging that the City had breached the contract of insurance under which the City retained liability for the first \$500,000 of any claim. The City answered the complaint, and there was some inconsequential motion practice, wherein the judge expressed some doubts as to the City's position. In any event, the case proceeded to mandatory mediation. After protracted discussions, Mediator Dan Coffey brokered a deal agreeable to the parties whereby the City would pay Argonaut \$82,500 in full satisfaction of its claims, in return for a release of liability and discontinuance of the civil action. The settlement is expressly subject to City Council approval.

It is respectfully recommended that the settlement of this lawsuit be approved. By its terms, the settlement results in a savings of \$17,500 to the City. The case will be discontinued in its entirety and the proceeding will be dismissed with prejudice upon payment of the agreed sum, which is 17.5% less than the principal amount alleged to be owed. There will be no interest payable (interest is usually awarded in contract cases), and no admission of liability or fault on the part of the City. Additionally, each party will be responsible for its own costs and attorney's fees, and the City will be released from all further liability. The recommendation to settle this case is strictly a business decision taken in full consideration of the facts and circumstances of the case, the available defenses to the claim, and the potential for a substantially higher award of damages and interest, as well as the expenditures of further litigation, trial, and appeal. Plaintiff understands that the proposed settlement is conditioned upon approval of the City Council and the Mayor. If the terms of the settlement are not approved and fully executed, then the case will be returned to the District Court's motion and trial calendars.

Exhibit A

Mediator's Memorandum of Settlement Agreement

From: Dan Coffey <coffey@bcalbany.com>
Sent: Tuesday, September 1, 2020 2:00 PM
To: William Stewart <WStewart@stewartsmithlaw.com>; Rhiannon Spencer <Spencer@psgglaw.com>
Subject: Argonaut v. City of Troy

Bill and Rhiannon – this matter has settled with the following provisos:

1. City of Troy will pay \$82,500 in exchange for release and discontinuance of this action
2. At this point, we only have Troy's Corporation Counsel's recommendation of the \$82,500 and it must be approved by the Troy City Counsel
3. Troy needs until December to pay the \$82,500 (Bill needs to discuss this with his client but did not think this would be an issue

I will report to NDNY that we have a tentative settlement in place and leave it to you to work through any particulars.

Thank you and your clients for being willing to work to resolve this matter.

- Dan

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**RESOLUTION SETTING THE DATES OF THE REGULAR MONTHLY MEETINGS
OF THE TROY CITY COUNCIL**

NOW, BE IT RESOLVED, that pursuant to § C-19 of the City Charter, the following dates are set for the regular monthly meetings of the Troy City Council for the year 2021:

Regular Council Meetings, 7:00 p.m.

January 7, 2021
February 4, 2021
March 4, 2021
April 1, 2021
May 6, 2021
June 3, 2021
July 8, 2021
August 5, 2021
September 9, 2021
October 7, 2021
November 4, 2021
December 2, 2021

Approved as to form _____, 2021

Richard T. Morrissey, Corporation Counsel

**RESOLUTION WAIVING CERTAIN FILING REQUIREMENTS IN 2021 BECAUSE
OF THE COVID-19 PANDEMIC**

WHEREAS, on March 7, 2020, Governor Andrew M. Cuomo issued Executive Order Number 202, declaring a State Disaster Emergency for the entire State of New York; and

WHEREAS, on December 18, 2020, Governor Andrew M. Cuomo issued Executive Order Number 202.83, extending suspension and modification of subdivisions 7, 7-a, and 8 of section 459-c of the Real Property Tax Law, and subdivisions 5, 5-a, 5-b, 5-c, and 6 of section 467 of the Real Property Tax Law, to the extent necessary to permit the governing body of an assessing unit to adopt a Resolution directing the Assessor to grant exemptions pursuant to such sections on the 2021 Assessment Roll to all property owners who received that exemption on the 2020 Assessment Roll, thereby dispensing with the need for renewal applications from such persons, and further dispensing with the requirement for Assessors to mail renewal applications to such persons; and

WHEREAS, the City desires to adopt such a Resolution with the proviso that the City Assessor shall require a renewal application to be filed when the Assessor has reason to believe that an owner who qualified for the exemption on the 2020 Assessment Roll may have since changed his or her primary residence, added another owner to the deed, transferred the property to a new owner, or died.

NOW, THEREFORE, BE IT RESOLVED, in accordance with the authority granted by Executive Order Number 202.83, the City Council hereby directs the City Assessor to take all necessary actions, without renewal applications, to grant exemptions on the 2021 Assessment Roll pursuant to the aforesaid provisions of the Real Property Tax Law, to all property owners who received such exemptions on the 2020 Assessment Roll; and

BE IT FURTHER RESOLVED, the City Assessor shall require a renewal application to be filed when the Assessor has reason to believe that an owner who qualified for the exemption on the 2020 Assessment Roll may have since changed his or her primary residence, added another owner to the deed, transferred the property to a new owner, or died; and

BE IT FURTHER RESOLVED, this Resolution shall take effect immediately.

Approved as to form _____, 2021

Richard T. Morrissey, Corporation Counsel