



PERSSON, COHEN, MOONEY, FERNANDEZ & JACKSON, P.A.
ATTORNEYS AND COUNSELORS AT LAW

M E M O R A N D U M

To: Mayor Schneier and Town Commissioners
From: Maggie D. Mooney, Esq., Town Attorney
Daniel P. Lewis, Attorney
Date: October 20, 2023
Subject: Approval Forfeiture Litigation Settlement in the matter of *In Re: Forfeiture* of \$7,859.62, Case No. 2023 CA 6287 NC (Pending in the Twelfth Judicial Circuit in and for Sarasota County and filed on August 17, 2023)

At the September 11, 2023, Town Commission meeting the Town Commission authorized the Town Attorney's office to file and pursue the above captioned forfeiture action relating to certain contraband (drugs and U.S. currency totaling of \$7,859.62) that was seized following a July 2023 traffic and drug related arrest. The forfeiture action that was filed on the Town's behalf pursued the entire value of the contraband totaling \$7,859.62. Since initiating this proceeding, the claimant in this action (Tamara Cadet) has asserted ownership over a portion of the funds (\$898.00), and disclaimed ownership over the remaining funds (\$6,961.62).

Rather than continuing with the litigation and the expenditure of attorneys fees to challenge the claimant's ownership interest in the \$898.00, the Town Attorney's office, Town Manager, and Police Chief believe it is in the best interest of the Town to not contest the claimant's assertion. Accordingly, the Town Attorney's office has negotiated a settlement agreement with the claimant that would end the ongoing litigation, return only the portion of the seized funds that are claimed by the claimant to her, and the Town would receive the balance of the funds as lawfully seized contraband. A proposed Settlement Agreement and Waiver prepared by the Town Attorney's Office is attached. As proposed, the Settlement Agreement and Waiver would include the following terms: (a) the Town discharges its rights to the portion of the funds claimed by the claimant (\$898.00); (b) the claimant discharges, releases, indemnifies, and holds the Town harmless from all civil claims and actions that could be brought against the Town by the claimant arising from this action; (c) the claimant asserts that there are no other interested parties with an ownership interest in the contraband funds; and (d) each side bears their own attorneys fees and costs.

In consultation with the Town Manager and Police Chief, it is the Town Attorney Office's recommendation that a settlement agreement in a substantially similar form to the attached proposed Settlement Agreement and Waiver be entered into by the Town. We are

requesting Town Commission authorization for the Town Manager and Police Chief to enter into such a settlement agreement on the Town's behalf in the matter of *In Re: Forfeiture* of \$7,859.62, Case No. 2023 CA 6287 NC (Pending in the Twelfth Judicial Circuit in and for Sarasota County).

This item is being placed on the November 6, 2023, consent agenda item for Town Commission approval. Since the Town Commission authorized the filing of this litigation pursuant to Section 30.09 of the Town Code, we are requesting Town Commission also approve of the authorization to settle this case and end this litigation. If there are any questions or concerns regarding the status of this litigation or the authorization requested in the Memorandum, please do not hesitate to contact me directly.

Recommended Motion: Authorize the Town Manager and Police Chief to enter into a Settlement Agreement and Waiver on the Town's behalf as approved by the Town Attorney's office in the lawsuit captioned, *In Re: Forfeiture* of \$7,859.62, Case No. 2023 CA 6287 NC (pending the Twelfth Judicial Circuit Court).

Attachments: (available from the Office of the Town Clerk)

1. Memorandum dated August 17, 2023, from the Town Attorney's Office to Mayor Schneier and Town Commissioners providing a "General Overview of the Civil Forfeiture Process in Florida and the Florida Twelfth Judicial Circuit."
2. Proposed Settlement Agreement and Waiver

End of Agenda Item