

**MEMORANDUM**Phone: 334-5011/Fax 334-2229  
Box 46**Office of the City Attorney****CONSENT****TO:** Mayor and City Commissioners**DATE:** December 11, 2006**FROM:** City Attorney**SUBJECT:** Judith Chase, Ollen Rogers and Joseph Nelson v. City of Gainesville and Alachua County Sheriff's Office; United States District Court Case No. 1:06cv44SPM/AK

---

Recommendation: The City Commission 1) approve the terms of the settlement agreement; and 2) authorize the City Attorney and/or outside counsel to settle the claim of Judith Chase, Ollen Rogers and Joseph Nelson on behalf of the City.

In March 2006, Plaintiffs, Judith Chase, Ollen Rogers and Joseph Nelson filed a Complaint for Declaratory and Injunctive Relief and Damages against the City of Gainesville and Alachua County Sheriff's Office claiming their First, Fourth and Fourteenth Amendments rights had been violated. On June 15, 2006, Plaintiffs filed a First Amended Complaint for Declaratory and Injunctive Relief and Damages. Plaintiffs alleged that they, and other homeless individuals, were prohibited from standing on public sidewalks and streets holding signs soliciting charitable donations from fellow citizens. Plaintiffs also challenged the constitutionality of Article V of the City's Code of Ordinances.

Earlier this year, the parties negotiated a partial settlement whereby the City agreed not to enforce certain sections of the Florida Statutes and the City's Code as currently written. The City also agreed to make changes to its code. This partial settlement agreement was approved by the Commission on October 9, 2006, along with the proposed changes to the City Ordinance.

The parties have negotiated a settlement of the remaining issues in the case. The City has agreed to pay the three plaintiffs a total of \$11,500 in damages and to pay Plaintiffs' attorney fees (which Plaintiffs would be entitled to under the Federal Civil Rights Act) in the amount of \$55,000. A portion of the settlement monies will come from the City's insurance carrier. It is the recommendation of outside counsel, the City Attorney's office and the Risk Management Department that the case be settled as described above. The case against the Sheriff continues.

Prepared by:

Elizabeth A. Waratuke,  
Litigation Attorney

Submitted by:

Marion J. Radson,  
City Attorney