

46791

Ordinance No. 46791

Relating to and providing for the compromise settlement and payment of the claims of the North Bend Lumber company, a corporation, and other claimants, against the City of Seattle, for alleged damages to property, and making an appropriation therefor.

48721

Council Bill No. 35962

INTRODUCED:	BY: Committee of the whole.
REFERRED:	TO:
REFERRED:	
REPORTED:	VETO:
APR 14 1924	
SECOND READING:	PUBLISHED:
APR 14 1924	
THIRD READING:	VETO SUSTAINED:
APR 14 1924	
SIGNED:	PASSED OVER VETO:
APR 14 1924	
PRESENTED TO MAYOR:	APPROVED:
APR 14 1924	APR 24 1924
FILED:	PUBLISHED:
APR 24 1924	
ENGROSSED:	BY:
VOL. <u>21</u> PAGE <u>568</u>	
COMPARED BY:	

APR 24 1924

94642-Referendum Petition. No. Ref #1

979-27 comm controller rel to referendum petitions filed 5/24/24 sufficient

95106-Report Controller on pet

59976-Settlement of claimants

Election 3/10/25 re ratification. That ord. $\left\{ \begin{array}{l} \text{in favor of } 17436 \\ \text{vs } 20060 \end{array} \right.$

file 92017
94600
92425
94936
97979

ord
59243
59376
60101

46791

ORDINANCE NO. 46791

48721 affirmed 4/22/25

AN ORDINANCE relating to and providing for the compromise settlement and payment of the claims of the North Bend Lumber Company, a corporation, and other claimants, against The City of Seattle, for alleged damages to property, and making an appropriation therefor.

WHEREAS, heretofore, the North Bend Lumber Company, a corporation, and the other claimants hereinafter named, duly filed with the City Comptroller and Ex-officio City Clerk, their claims against The City of Seattle for damages to property alleged to have been occasioned by the construction and maintenance by The City of Seattle of the so-called Crib Dam at Cedar Lake and the so-called Masonry Dam across the Cedar River below Cedar Lake, and the impounding of water behind and between said dams, in various amounts hereinafter specified as follows, to-wit:

1. North Bend Lumber Company, a corporation,	\$401,629.02
2. Walker D. Hines, as Director General of Railroads,	99,305.61
3. Innovation Shingle Company, a corporation,	78,515.00
4. F. W. Tabor	2,429.25
5. Arthur Larson	2,515.35
6. S. R. Dunham	926.35
7. H. E. Lockwood	53.20
8. Army Y.M.C.A. Spruce Division	266.75
9. Grant Lightheart	98.90
10. John G. Workman	666.00
11. C. L. Mansfield	2,378.25
12. T. E. Dorgan	375.00
13. F. O. Weise	3,063.84
14. L. A. Wade	3,522.02
15. John Berggren	180.65
16. Peder Pederson	811.45
17. Mabel Baird Mayer	585.00
18. Edgewick Chapter of the American Red Cross	180.00
19. F. M. McElroy	3,439.95
20. A. M. Paulson	1,809.15
21. T. H. Martel	1,041.25
22. F. J. Clark	562.25
23. John Brauer	3,500.00
24. C. S. Naud	342.00
25. Mabel Fleming, as administratrix,	2,659.40
26. Elizabeth Close, et al.	2,705.00
27. King County	8,100.00

And, WHEREAS, legal proceedings have been instituted by various of said claimants against The City of Seattle based upon said claims, and

WHEREAS, the City Council has agreed with certain of said claimants to a compromise settlement and allowance of their claims and the payment thereof, as hereinafter provided; Now, Therefore,

Be it Ordained by the City of Seattle as follows:

Section 1. That the sum of One Hundred Seventy-five Thousand, Nine Hundred Seventy-one (\$175,971.00) Dollars be, and the same hereby is, appropriated for the payment of the said claims of the following named claimants, for damages to property alleged to have been occasioned by the construction and maintenance by The City of Seattle of the so-called Crib Dam at Cedar Lake and the so-called Masonry Dam across the Cedar River below Cedar Lake, and the impounding of water behind and between said dams, in the following amounts, to-wit:

1. North Bend Lumber Company, a corporation,	\$ 134,312.00
2. James C. Davis, as Director General of Railroads,	20,000.00
3. Innovation Shingle Company, a corporation,	11,406.00
4. F. W. Tabor	610.00 ✓
5. Arthur Larson	654.00
6. S. R. Dunham	53.00
7. H. E. Lockwood	13.00
8. Army Y.M.C.A. Spruce Division	66.00
9. Grant Lightheart	25.00
10. John G. Workman	166.00
11. C. L. Mansfield	600.00
12. T. E. Dorgan	94.00
13. F. O. Weise	650.00
14. L. A. Wade	750.00
15. John Berggren	45.00
16. Peder Pederson	203.00
17. Mabel Baird Mayer	146.00
18. Edgewick Chapter of the American Red Cross	45.00 \
19. F. M. McElroy	860.00
20. A. M. Paulson	402.00
21. T. H. Martel	131.00
22. F. J. Clark	140.00 ✓
23. John Brauer)	
24. C. S. Naud)	950.00
25. Mabel Fleming, as administratrix	500.00
26. Elizabeth Close, G. H. Close, J. D. Close and J. C. Close	450.00
27. King County	2,700.00

Section 2. That the City Comptroller and Ex-officio City Clerk be, and he is hereby, authorized and directed to draw, and the City Treasurer to pay, warrants on the Light Fund in favor of the various claimants named in Section 1 hereof in the various sums specified in said Section 1, such warrants to be delivered to said claimants upon the execution and filing with the said City Comptroller and Ex-officio City Clerk by each claimant

and all of them of a release and satisfaction in full of the claim of each of said claimants, in substantially the following form:

"RELEASE AND SATISFACTION OF CLAIM.

KNOW ALL MEN BY THESE PRESENTS: That _____ of _____, does hereby remise, release and forever discharge The City of Seattle, a municipal corporation of the first class of the State of Washington, of and from any and all manner of actions and causes of action, suits, debts, dues, accounts, claims and demands whatsoever in law or equity against the said City of Seattle for or by reason of any cause, matter or thing whatsoever arising out of, or based upon, the construction and maintenance by The City of Seattle of the so-called Crib Dam at Cedar Lake and the so-called Masonry Dam across the Cedar River below Cedar Lake, and the impounding of water behind and between said dams, in December, 1918, and January, 1919, and does hereby agree to, and authorize and direct the dismissal of any and all suits or actions, or legal proceedings of any kind or nature, in law or equity, heretofore instituted by, or for, or in _____ behalf, based upon or involving such claims in any way.

DATED _____, 19____.

By _____

And _____"

and the further filing by each and all of said claimants of a certified copy of an order of dismissal with prejudice of any suit or suits pending against the city in respect to such claims.

Provided, however, that no warrant shall issue hereunder until all of said claimants shall have filed such releases and certified copies of orders of dismissal.

(To be used for all Ordinances except Emergency.)

Section 3. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed the City Council the 14 day of APRIL 1914
and signed by me in open session in authentication of its passage this 14 day of
APRIL 1914 *A.B. Fitzgerald*
President of the City Council.

The foregoing bill, after its passage and authentication, and within five days thereafter, was presented to the Mayor, who returned the same to the City Council without his disapproval or approval.

Witness my hand and seal of said city this 24 day of APRIL 1914
A. W. Carroll
City Comptroller and Ex-officio City Clerk.

[SEAL]

By *[Signature]*
Deputy Clerk.
City Comptroller and Ex-officio City Clerk.
By _____
Deputy Clerk.

ASSISTANT CORPORATION COUNSEL

WALTER B. BEALS
EDWIN C. EWING
GEO. A. HEAGHER
ARTHUR R. GRIFFIN
FRANK M. PRESTON
HUGH R. FULLERTON
J. AMBLER NEWTON

CITY ATTORNEY
RAY DUMETT

THE CITY OF SEATTLE LAW DEPARTMENT

THOMAS J. L. KENNEDY, CORPORATION COUNSEL

CHIEF CLERK
R. B. McCLINTON

LAW CLERKS
A. C. VAN SOELEN
W. D. COWINGTON
W. L. BAUMGARTNER
J. D. MACDOUGALL

CLAIM AGENT
J. H. DENNIS

December 6, 1923.

Re: Transmittal of proposed ordinance
providing for settlement of Cedar
River Dam claims of North Bend
Lumber Co., et al.

City Council,
Seattle, Washington.

Gentlemen:

Pursuant to your direction endorsed upon Comptroller's File No. 92089 we have prepared, and herewith transmit proposed ordinance providing for compromise settlement, and payment out of the Light Fund, of the claims of the North Bend Lumber Company and others. Said claims are for damages to property alleged to have been caused by the construction and maintenance by the City of Seattle of the so-called Crib Dam at Cedar Lake, and the so-called Masonry Dam across the Cedar River below Cedar Lake, and the impounding of water behind and between said dams, in December of 1918 and January of 1919. The proposed ordinance provides for the execution and delivery, by each claimant, to the City Comptroller and Ex-officio City Clerk of a release and satisfaction of claim in substantially the form specified in Section 2 thereof.

In arriving at the basis upon which settlement is proposed to be made with all claimants the City Council has apparently adopted the ratio between the original claim of the North Bend Lumber Company and the amount suggested by that company as a compromise settlement. In many instances the claims as originally filed contain items of alleged damage for which in no event could recovery be had as a matter of law, and in such instances claimants would thus receive upon their claims percentages of amounts to which they are not legally entitled under any circumstances.

The attention of the City Council is invited to the fact that no settlement is proposed to be made of the claim of King County. The amount of this claim as originally filed is \$8,100.00 and an action is now pending based upon said claim in which judgment is asked in that amount. We assume that the City Council understands that the settlement of any of these claims would be competent evidence against the city in future controversies in respect to similar occurrences.

The compromising and settlement of claims prosecuted against the city in good faith under color of lawful right involve questions of policy determinable by the City Council, but we have been asked to prepare the compromise ordinance and in preparing the ordinance pursuant to the express direction of the City Council we desire to say, in order that our position may not be misunderstood, that this department does not recommend or approve the proposed settlement or any settlement of said claims.

We return herewith Comptroller's File No. 92089.

Very truly yours,

THOMAS J. L. KENNEDY,
Corporation Counsel,

By *Edwin C. Ewing*
Assistant.

ECE LC
Encl.