



**Request for City Council Committee Action
From the City Attorney's Office**

Date: July 26, 2005
To: Ways & Means/Budget Committee
Referral to:

Subject: Jonathan J. Charon v. City of Minneapolis, et al.
United States District Court File No.: 04-939 DSD/SRN

Recommendation: That the City Council approve settlement of the above-referenced case in the amount of \$30,000.00 payable to Jonathan Charon and his attorney, Joel Theisen and that the City Attorney's Office be authorized to execute any documents necessary to effectuate the settlement.

Previous Directives:

Prepared by: James A. Moore, Assistant City Attorney

Phone: 673-2063

Approved by: _____
Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

Financial Impact (Check those that apply)

- No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain): Fund/Org No. 6900 150 1500 4000
- Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact:

City Goals: Build Community

Background/Supporting Information

On July 20, 2005, a settlement conference was held before the Honorable Magistrate Judge Susan Richard Nelson in United States District Court for the District of Minnesota. The settlement conference was attended by Assistant City Attorney Jim Moore, Council Member Dan Niziolek and Lieutenant Michael Davis of the Internal Affairs Division. The individually-named police officers also attended the settlement conference. At the settlement conference the parties were able to reach a tentative settlement, contingent upon City Council approval. The settlement calls for the dismissal of the individually-named officers and a payment from the City of \$30,000.00 to Plaintiff and his attorney.

On March 31, 2000, at approximately 1:05 a.m., Minneapolis Police Officers Mark Lanasa and David Mathes were working in plain clothes and driving an unmarked minivan. They encountered the Plaintiff, Jonathan Charon and his friend in the alley. Mr. Charon, believing that the officers had driven too close to him, swore at the officers. Thereafter, Mr. Charon stepped behind a dumpster to relieve himself. The officers stopped the van and approached him. The officers identified themselves as police officers, but Mr. Charon and his friend repeatedly demanded identification from the officers and refused to believe that they were being confronted by police officers. Mr. Charon, fearing that he was about to be kidnapped or beaten up, resisted the officers attempts to take him into custody. The officers wrestled with Mr. Charon and used the lateral vascular neck restraint to bring him under control. Plaintiff maintains that he was repeatedly kicked and punched, both before and after he had been placed in handcuffs. The officers deny that they struck any blows. Mr. Charon sustained multiple contusions. He also suffered a ruptured eardrum that has resulted in a permanent hearing loss and the prospect of surgery later in life. Mr. Charon has been diagnosed with post traumatic stress disorder as a result of the altercation with the police officers. The City's Independent Psychological Evaluation confirmed that Mr. Charon has post traumatic stress as a result of the incident. Mr. Charon remains afraid of police officers and has not driven a motor vehicle since the time of the altercation because of his fear that he would be stopped by police. He has also been unable to participate in the band in which he had played prior to the incident because of the hearing loss.

For the foregoing reasons, the City Attorney's Office and Council Member Niziolek recommend settlement of the case of Charon v. City of Minneapolis, et al. in the amount of \$30,000.00.