



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

Date: December 28, 2010  
To: Ways & Means/Budget Committee  
Referral to:

**Subject:** *Herr v. Peterson, et al.*  
United States District Court File No.: 09-cv-02741 (RHK/FLN)

**Recommendation:** That the City Council approve the settlement of this case by payment of \$3,000.00, to Anna Herr and her attorneys, Chrastil and Steinberg, P.L.L.P. from Fund/Org. 06900 1500100 145400 and authorize the City Attorney's Office to execute any documents necessary to effectuate the settlement.

**Previous Directives:** None.

Prepared by: Timothy S. Skarda Phone: (612) 673-2553

Approved by:   
Susan L. Segal  
City Attorney

Presenter in Committee: Susan L. Segal, City Attorney

**Financial Impact** (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).  
 Action requires an appropriation increase to the \_\_\_\_\_ Capital Budget or \_\_\_\_\_ Operating Budget.  
 Action provides increased revenue for appropriation increase.  
 Action requires use of contingency or reserves.  
 Business Plan: \_\_\_\_\_ Action is within the plan. \_\_\_\_\_ Action requires a change to plan.  
 Other financial impact (Explain): Payment from Fund/Org. 06900 1500100-145400  
 Request provided to department's finance contact when provided to the Committee Coordinator.

**Community Impact:** Build Community

**Background/Supporting Information**

The Plaintiffs' in this lawsuit are Anna Vue Herr, Leng Herr, and their three minor children, who at the time lived in north Minneapolis. The claims arose after from the service of a search warrant drafted by the Minnesota Gang Strike Force ("MGSF") at the Plaintiff's residence on October 4, 2007. Minneapolis officers served the warrant, secured the residents and left the residence.

The Plaintiffs asserted claims against the Minneapolis Police officers and against the MGSF and MGSF officers. The claims included federal causes of action pursuant to 42 U.S.C. § 1983 under the Fourth Amendment and Fourteenth Amendment for unreasonable search and seizure, the use of excessive force and the failure to prevent constitutional violations; and equal protection violations and state causes of action for claims under Minn. Stat. § 626.74, battery, assault, false imprisonment, intentional infliction of emotional distress, and negligent infliction of emotional distress. The MGSF and MGSF officers settled their claims.

On November 9, 2010, a summary judgment hearing was held in Federal District Court before the Honorable Richard H. Kyle. On November 16, 2010, Judge Kyle issued an Order granting the City's motion and

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dismissing the case in its entirety. The City prevailed on summary judgment. To avoid appeal of the summary judgment in the City's favor, we recommend this settlement in the amount of \$3,000. The proposed settlement includes all claims for attorneys' fees and costs. The City has also agreed not to attempt to seek costs related to the summary judgment decision.

The proposed settlement was discussed with and approved by the Minneapolis Police Department which joins in recommending approval by this Committee and the City Council.