



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

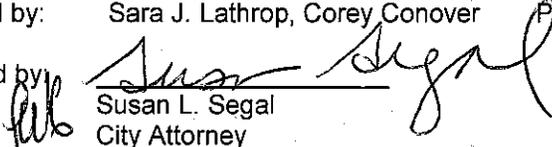
Date: May 10, 2010
To: Transportation and Public Works Committee
Referral to:

Subject: Commissioner v. City of Minneapolis - MPD Special Operations
Office of Administrative Hearings Docket No. 3-1901-21115-2

Recommendation: That the City Council approve the settlement of this case and authorize the City Attorney's Office to execute any documents necessary to effectuate settlement.

Previous Directives: None.

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Approved by: 
Susan L. Segal
City Attorney

Presenter in Committee: Sara Lathrop, Corey Conover, Assistant City Attorneys

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. 06900-1500100-145685
- Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact: Build Community

Background/Supporting Information

The Minneapolis Police Department Special Operations Center is located on a leased property at the Hamilton School (the "Hamilton School") on Humboldt Avenue North in north Minneapolis. This facility is operated by the Minneapolis Department of Public Works, Property Services Division pursuant to a lease with the Minneapolis School District. The facility was cited by the

Minnesota Department of Occupational Safety and Health for lead in the water under the Minnesota Occupational Health and Safety Act in late 2008. The City informed employees of the hazard and took a variety of actions to remedy the problem. This included shutting down various water taps and placing end of tap filters on others. The City filed an Answer denying that the lead levels that were found by themselves constituted an offense under the Act.

The City and the state OSHA department have agreed, subject to Council approval, to resolve the citation by entering into a settlement agreement, whereby the City agrees:

- (1) To document to OSHA that the City took action, consistent with the federal Safe Drinking Water Act, to minimize lead in water at the Hamilton School building that it leases. The City will document that it closed off from use the sources with higher levels of lead, and put filters on other sources that brought levels below specified action levels in the Safe Drinking Water Act.
- (2) To document to OSHA that the employees at the Hamilton School were informed of the hazard and instructed not to use the fountains before the action set forth above was taken.
- (3) That the water at the Hamilton School will continue to conform to the standards set forth in the Safe Drinking Water Act.
- (4) To post for employees at that site and to their union representative the settlement agreement on the date of execution.

In essence, OSHA is agreeing to rescind the citation in exchange for proof that the situation has been resolved, without any further payments or promises.

The City Attorney's Office recommends that the City Council approve the settlement of this case and authorize the City Attorney's Office to execute any documents necessary to effectuate settlement.