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

Date: July 23, 2008
To: Ways & Means/Budget Committee
Referral to:

**Subject:** Dewayne Davidson v. City of Minneapolis, *et al.*
Court File No. 07-CV-3213 PJS/JJG

**Recommendation:** That the City Council approve the settlement of this case by payment of $16,500.00, payable to Stephen C. Fiebiger & Associates, Chartered for and on behalf of Dewayne Davidson, 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: Gregory P. Sautter Phone: (612) 673-2683

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.
_X_ Other financial impact (Explain): Payment from Fund/Org. 6900 150 1500 4000
___Request provided to department's finance contact when provided to the Committee Coordinator.

**Community Impact:** Build Community

## Background/Supporting Information

This matter arose from Canine Officer Mark LaNasa's encounter with Plaintiff Dewayne Davidson at 11:21 p.m. on July 9, 2005. Officer LaNasa and his police dog, Virgil, were tracking a burglary suspect on the property of the Port of Minneapolis River Services facility when they came upon Davidson. Officer LaNasa and Virgil found Davidson standing and holding a four foot engineering stake and yelling in at them. LaNasa repeatedly ordered Davidson to the ground, but, instead of complying, Davidson aggressively advanced toward them with the stake. After several warnings, Officer LaNasa released the dog. Virgil took Davidson to the ground, bit him and caused a laceration in Davidson's left calf. Davidson claims that he complied with LaNasa's orders and that he got to the ground. Davidson has testified at deposition that LaNasa released the dog while he was compliant on the ground. Davidson denies wielding the stake. After assisting officers arrived, Davidson was handcuffed and escorted to a squad car. Davidson was taken to North Memorial Medical Center for treatment. Davidson was not the suspect being tracked.

Mr. Davidson is a 49 year old male with no significant prior criminal background. Mr. Davidson is homeless and was camping next to the Mississippi River where he encountered Officer LaNasa. Davidson suffered a

laceration to his leg and wounds to his left hand from the dog bite with medical costs of over $17,500.00. Davidson also claims injuries to his teeth and various bruises, as well as pain and suffering. The City has reason to dispute the other injuries alleged.

Davidson brought claims of excessive force, unconstitutional canine policy and training pursuant to 42 U.S.C § 1983 against the City of Minneapolis, Officer LaNasa, Sgt. Patrick Myslajek, and Officer Patricia Nelson. He also asserted state law allegations of strict tort liability for a dog bite. Davidson's constitutional claims allow for the recovery of all damages plus costs and reasonable attorney's fees. The City moved for summary judgment related to the training and policy claims and the claims were dismissed by the Court. The constitutional excessive force and state law strict tort liability claims remained after summary judgment.

The case is scheduled for a trial block beginning August 4, 2008. The City participated in a court ordered settlement conference on June 23, 2008, before Federal Magistrate Judge Jeanne Graham. The settlement conference was attended by Council Member Diane Hofstede, Assistant City Attorney Gregory Sautter, Assistant City Attorney Timothy S. Skarda, Deputy Chief Valerie Wurster, Officers LaNasa and Nelson, Sergeant Myslajek, and Paralegal Christina Hill on behalf of the City. Davidson attended with his attorney Stephen Fiebiger. After extensive negotiation, a proposed settlement was reached in the amount of $16,500.00, including attorneys' fees and costs. The proposed settlement would be made with the City and the officers dismissed from the litigation. All the parties involved in the settlement conference believe that the proposed settlement is in the best interest of the City and recommend approval by this Committee and the City Council.