



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

Date: April 25, 2007
To: Ways & Means/Budget Committee
Referral to:

Subject: Walter Childs v. James Burns
United States District Court, District of Minnesota,
Court File No.: 0:06-cv-04264-JNE-SRN

Recommendation: That the City Council approve payment of the Judgment in the amount of \$75,000.00 plus post-judgment interest payable to Walter Childs and his attorneys, Flynn, Gaskins & Bennett; and, that the City Council further approve payment of costs and reasonable attorneys' fees to be determined by the Court or agreement of counsel. That the City Council authorize the City Attorney to execute any documents necessary to effectuate the resolution of this lawsuit, payable from Fund/Org. 6900 150 1500 4000.

Previous Directives:

Prepared by: Charles J. Brown, Jr., Assistant City Attorney Phone: 612-673-2903

Approved by: Jay M. Heffern
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): Payment from Fund/Org. 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 May 10, 2006, Officers James Burns and Michael Geere pulled over a stolen vehicle driven by two juveniles. The arrested juveniles stated that Walter Childs gave them the car to use. One person stated that the vehicle came from his mother's "crack head" friend who was still at his mother's residence. Officers Burns and Geere drove to the house looking for Childs. Burns came to the door of the house and explained to the mother and Childs that he and his partner stopped some young men who were driving a car without a license and asked them to step outside to identify the boys. Once Childs was out of the house, Burns took him down to the ground to handcuff and arrest him. Burns landed horizontal to the ground. Childs did not resist arrest or attempt to flee, but rather Burns took Childs down to the ground because he thought he might flee. As a result, Childs sustained an injury to his left leg. Officers Burns and Geere then transported Childs to Hennepin County Adult Detention Center ("HCADC"). The booking video shows Childs slightly limping when he first arrived at HCADC and then more pronounced with time. Childs was later diagnosed with a vertical fracture through the medial aspect of the lateral tibial plateau. Consequently, Childs underwent surgery involving open reduction and internal fixation with bone allografting to the left tibia. On October 23, 2006, Walter Childs filed suit in the United States District Court for the District of Minnesota alleging damages and civil rights violations.

On March 30, 2007, in closed session, the Minneapolis City Council was advised regarding this matter and supported a Rule 68 Offer of Judgment. The City Attorney's Office served a Rule 68 Offer of Judgment on Childs' attorney for \$75,000, plus costs and reasonable attorneys' fees. On April 20, 2007, Childs accepted the Offer of Judgment. The Court entered the judgment on April 23, 2007.

Given that post-judgment interest is calculated from the date the judgment is entered until the date the judgment is paid, the City Attorney's Office believes that the prompt payment of the judgment and accruing interest is in the best interest of the City of Minneapolis and recommends approval. The City Attorney's Office also requests approval for payment of costs and reasonable attorneys' fees either as agreed upon by counsel or determined by the Court.