



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

Date: June 17, 2005  
To: Ways & Means/Budget Committee  
Referral to:

**Subject:** Madden & Burns v. City of Minneapolis, et al.  
United States District Court File No.: 04-1448 (DWF/SRN)

**Recommendation:** That the City Council approve the settlement of this case by payment of \$25,000.00 to Aaron Madden and his attorney, Frederick Goetz, and \$65,000.00 to Dennis Burns and his attorney, Frederick Goetz, from Fund/Org. 6900 150 1500 4000 and authorize the City Attorney's Office to execute any documents necessary to effectuate settlement.

**Previous Directives:**

Prepared by: C. Lynne Fundingsland, Assistant City Attorney Phone: 673-3339

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. 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 June 28, 2003, Plaintiffs Burns and Madden were returning from a pool party in Roseville. Both Plaintiffs lived in south Minneapolis and are in their late 20's. Both Plaintiffs admit being intoxicated when they left the pool party and being intoxicated at the time the following events took place.

Upon returning to their house, Burns exited his vehicle and began to urinate in the street. Burns was confronted by a person who is a Detention Deputy for Hennepin County, Bradley Laudert, who was walking with his wife. With Laudert and his wife was his son, who was riding ahead of them on his bicycle. Laudert

also had his dog with him, who was described as a medium sized dog. Burns began talking to Laudert's son, and Laudert told Burns to quit exposing himself to his son and to "take it inside". Burns immediately started a verbal altercation with Laudert. Madden then exited the vehicle and also began hollering at Laudert. Laudert called 911. Burns and Madden continued to confront Laudert, and at one point in time, Burns took Laudert's dog and lifted him up by his choke collar. Finally, Burns and Madden retreated into their house.

Burns and Madden both stated that they went inside the house and immediately locked the doors because they knew that the police would be arriving. At the same time, Officers Fuchs and Woodis responded to Laudert's call and, before they could reach the Plaintiffs' address, they were flagged down by Laudert. Laudert told the officers that the Plaintiffs had gone into their house. Fuchs and Woodis went to the Plaintiffs' house and knocked on both the front and the back doors. They were unable to gain admittance, with the Plaintiffs shouting at them that they would not open the door without an arrest warrant.

All of the above facts are agreed to by all parties. However, the rest of the facts are in dispute. Woodis and Fuchs claim that Burns, who was attempting to videotape these actions, came outside with the video camera and said to the officers "What are you assholes going to do now"? Burns denies ever leaving his house.

According to Burns and Madden, after the officers had been outside for some time and had been refused admittance, Fuchs kicked in the door and attacked Burns. Fuchs and Woodis state that, when Burns came out of the house, they told him he was under arrest and he then fled back into the house. The officers followed closely behind him and, as Burns was attempting to lock the door, Fuchs kicked the door in.

Fuchs states that Burns took a swing at him and they began to fight. Burns states that he never swung at Officer Fuchs, and that Fuchs tackled him and immediately put him on the ground, handcuffed him and began kicking him in the face. Woodis states that, as they entered the house, the officers initially went after Burns but Madden grabbed ahold of Woodis. Madden states that he never grabbed ahold of Woodis but that Woodis came after him. Burns sustained a blow-out fracture of his left medial orbital wall and left orbital floor which required surgery. He still suffers from blurred vision, double vision, and loss of peripheral vision. Madden suffered some scrapes and cuts and a broken toe.

Both Plaintiffs were charged criminally. Burns pled guilty to 5<sup>th</sup> Degree Assault regarding Laudert and Obstructing Legal Process with Force. After a Rasmussen hearing in Madden's case, Judge LaJune Lange dismissed the case, stating the officers' entry into the house was unlawful.

Both plaintiffs filed suit in United States District Court, claiming excessive force and a Fourth Amendment violation for entry into the house. Madden also sued for false arrest. Plaintiffs brought a summary judgment motion before the Honorable Donovan W. Frank, claiming that, based upon Judge Lange's prior ruling, the City and the officers were precluded from re-litigating the issue of the reasonableness of the officers' entry into the house. Judge Frank agreed, and granted the Plaintiffs' motion for summary judgment. In doing so, he held as a matter of law that the entry into the house was unreasonable and that the officers were not entitled to immunity.

Because of this ruling, the City began negotiations with Plaintiffs' counsel to reach a proposed settlement. As a result, the parties have reached a proposed resolution of this case by which the City would pay \$25,000.00 to Mr. Madden and \$65,000.00 to Mr. Burns for full and complete settlement of this matter. This settlement includes all of Plaintiffs' attorneys fees. We believe this is a good resolution to this case and, therefore, recommend settlement as set forth above.