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

Date: November 19, 2007
To: Ways & Means/Budget Committee
Referral to:

Subject: *Rachel Robinson v. Daniel Swalve and City of Minneapolis*

Recommendation: The City Attorney's Office recommends that the City Council approve the settlement of this case by payment of $40,000 to Rachel Robinson and her attorneys, Flynn, Gaskins, & Bennett 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: James A. Moore Phone: (612) 673-2063
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Approved by: _____
Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, 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): Fund/Org. 6900 150 1500 4000
___Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact
Neighborhood Notification
City Goal(s):
Build Community

Background/Supporting Information

On June 4, 2005, Rachel Robinson (Plaintiff) turned sixteen (16) years old. To celebrate her birthday, Brittany Robinson, Plaintiff's aunt, offered to take Plaintiff to Tropix Beach Club, an all-ages nightclub. At the time of the incident, Brittany Robinson was twenty-one (21) years old. Plaintiff's mother gave specific permission to Brittany Robinson to accompany Plaintiff to Tropix. Plaintiff, Brittany Robinson, and a small group of others spent the evening at the club. Ultimately, Plaintiff's group ventured away from the area around Tropix (400 Third Avenue North).

Plaintiff and her companions ended up at the intersection of Second Avenue North and Fifth Street sometime after 12:00 a.m. (midnight). Believing that some of the member's of Plaintiff's group were underage, Sgt. Daniel Swalve of the Minneapolis Police Department approached the group and asked their names, ages, and the location of their parents. Sgt. Swalve believed that Plaintiff was in violation of the Hennepin County Ordinance #16 and arrested Plaintiff, as well as two other juveniles. Thereafter, the juveniles were transported from the scene.

Hennepin County Ordinance #16 sets forth a 12:00 a.m. (midnight) curfew for 15-17 year olds on Friday and Saturday nights. The curfew does not apply to a juvenile who is with a parent, guardian, or "responsible adult." A "responsible adult" is defined as "a person eighteen (18) years or older specifically authorized by law or by a parent or guardian to have custody and control of a juvenile."

Plaintiff maintains that Brittany Robinson specifically and repeatedly told Sgt. Swalve that she was Plaintiff's aunt. Sgt. Swalve does not dispute this fact. However, Sgt. Swalve thought that Brittany Robinson and the other adults present at the scene were not "responsible adults" because they were not acting responsibly because they had numerous juveniles out late at night in an area of downtown Minneapolis that is known for crime. A reasonable jury could believe that Sgt. Swalve misinterpreted Hennepin County Ordinance #16 in making this determination.

In a lawsuit filed in federal district court, Plaintiff alleged that Sgt. Swalve violated her civil rights when he detained her for a curfew violation. Based on the legal issues presented, and a concern that Plaintiff's attorneys fees would continued to escalate, the City Attorney's office made a Rule 68 offer to Plaintiff in the amount of $3,000 plus attorney's fees. The Rule 68 offer was accepted by Plaintiff on November 9, 2007. We have reviewed Plaintiff's claim for attorney's fees, and she can reasonably claim $37,000 for these fees.

RECOMMENDATION

The City Attorney's Office recommends settlement of the above-referenced case through payment of $40,000 to Rachel Robinson and her attorneys, Flynn, Gaskins, & Bennett (payable from Fund/Org. 6900 150 1500 4000).

SHN 07-06093