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

Date: October 3, 2007
To: Ways & Means/Budget Committee
Referral to:

Subject: *Gary and Vicki Gilmer v. City of Minneapolis, et al,* Court File No. 07-CV-3488 (D. Minn. 2007)

Recommendation: That the City Council authorize payment pursuant to acceptance of a Rule 68 offer of judgment of $500 plus reasonable attorneys fees in the amount of $4,400.96 (a total of $4,900.96) payable to Gary and Vicki Gilmer through Peter J. Nickitas Law Office, L.L.C., from Fund/Org. 6900 150 1500 4000 and authorize the City Attorney's Office to execute any documents necessary to effectuate satisfaction of the judgment.

Previous Directives:

Prepared by: Gregory P. Sautter Phone: (612) 673-2683

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):

Background/Supporting Information

Gary and Vicki Gilmer sued the City of Minneapolis and responding officers Killebrew, Egge, Fahey, and Honican for alleged constitutional injury from a May 13, 2007, incident during which the officers entered the Plaintiffs' home against Plaintiffs' will. The officers entered Plaintiffs' home after receiving allegations of domestic violence in progress from Plaintiffs' family member located out of state. The officers contend that their entry was made upon probable cause and was legal pursuant to the domestic violence statute, Minn. Stat. § 629.341. Plaintiffs contend that the entry was illegal and was made in retaliation for other litigation, then pending, against the City of Minneapolis. While the City is confident its position, an issue of fact exists regarding whether the officer's entry was supported by probable cause.

After consulting with the officers involved, the City Attorney's Office litigation committee approved a Rule 68 offer of judgment for $500, plus reasonable attorney's fees and costs. The offer of judgment is below the $10,000 Rule 68 authority threshold granted the City Attorney's Office. Plaintiffs accepted the offer of judgment and Plaintiffs' counsel submitted a petition for attorney's fees to the City. Assistant City Attorney Greg Sautter reviewed the petition for fees and negotiated with Plaintiffs' counsel. They eventually agreed that the City would pay Plaintiffs' counsel at the rate of $200 per hour for 19 hours of work, plus $600.96 in verifiable litigation costs. The offer of judgment and acceptance have been filed with the court and a judgment against the City and the responding officers is expected to be issued soon. The City and responding officers admitted no responsibility or liability for the allegations in the Complaint.