



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

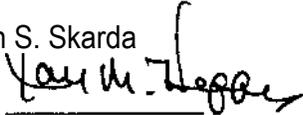
Date: November 13, 2006
To: Ways & Means/Budget Committee
Referral to:

Subject: Victor M. Mills v. William McManus and City of Minneapolis
Court File No.: 27-CV-06-1995

Recommendation: That the City Council approve the settlement of this case by payment of \$25,000.00 payable to Victor M. Mills and his attorneys, Nichols Kaster & Anderson, P.L.L.P., from Fund/Org. 6900 150 1500 4000 and authorize the City Attorney's Office to execute any documents and non-monetary relief necessary to effectuate settlement.

Previous Directives: None.

Prepared by: Timothy S. Skarda Phone: (612) 673-2553

Approved by: 
Jay M. Heffern
1); r 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.

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 arises out of an August 29, 2004, speech given by former Police Chief William McManus at Incarnation Church after an incident of August 15, 2004, during which Officer Victor Mills had been videotaped slapping a handcuffed suspect. During the course of this presentation, Chief McManus described what he viewed on the videotape to the audience, including members of the media. Chief McManus made subsequent comments regarding his perceptions. Officer Mills was placed on administrative leave for approximately six months while the incident was investigated. Officer Mills was cleared of any criminal wrongdoing and the Internal Affairs investigation concluded that inappropriate force had not been used. Officer Mill asserted throughout that the force used was to prevent the suspect from spitting and that he had been trained by the police department in the slapping technique. The Minneapolis Police Department had trained officers in the slapping technique, a fact of which Chief McManus was unaware at the time the speech was given.

In this lawsuit, the Plaintiff has asserted that the actions of Chief McManus defamed him and violated the Minnesota Data Practices Act, Minn. Stat. § 13.01 *et seq.* Minn. Stat. § 13.43 provides that "the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge

resulted in a disciplinary action" is considered public information. A copy of the videotape of the incident was given to Chief McManus and at that time became private personnel data. The speech was given prior to the videotape being broadcast on television.

Officer Mills has asserted damages for lost wages for overtime and off duty employment while on leave; emotional distress; and damage to his reputation. A determination that the Minnesota Data Practices Act had been violated would allow the recovery of attorney's fees and costs and could subject the City to a civil penalty between \$100.00 and \$10,000.00 for a willful violation of the act.

A tentative settlement of the lawsuit in the amount of \$25,000.00 was reached after mediation and consideration of the litigation at a closed session of the Minneapolis City Council on October 20, 2006. The proposed settlement includes additional non-monetary relief, approved by the police department, associated with personnel issues related to Officer Mills and the assumption of mediation expenses by the City. We believe that the settlement is in the best interests of the City, consistent with the directive of the City Council received on October 20, 2006, and recommend approval by this Committee.