

IMPACT STATEMENT

Legislation title: *Pay claim of Emily Johnson Purry, in the sum of \$250,000 involving Portland Parks and Recreation. (Ordinance)
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Purpose of proposed legislation and background information:

Emily Johnson Purry filed a lawsuit against two employees of Portland Parks and Recreation claiming that they were responsible for an injury resulting from a fall while was jogging in Waterfront Park in July of 2009. The plaintiff, who is legally blind, stepped into a hole in the ground off the paved path and fell. The hole had been dug around a defective sprinkler head the day before Johnson Purry's fall by one of the employees who was sued. The employee covered the hole with an orange cone which was no longer there the next day when Johnson Purry fell. Johnson Purry alleges that the employee and the supervisor were negligent in using the unsecured orange cone to mark the hazard near the waterfront path.

The City originally opposed the lawsuit based on a provision of Oregon's Public Use of Lands Act, known as recreational immunity. The legal issue of whether employees of the City were entitled to recreational immunity for alleged negligent acts was the subject of an appeal to the 9th Circuit Federal Appeals court which sought a ruling on the state law by the State of Oregon Supreme Court. On March 3, 2016, the Oregon Supreme Court ruled against the City, finding that although the City would be entitled to immunity from the suit, that the individual employees were not owners of the land, and thus could be sued. The case was then remanded back to the Federal District Court for further proceedings.

Subsequent to the ruling on recreational immunity, the parties engaged in mediation and reached a tentative settlement in the amount of \$250,000.00 inclusive of Johnson Purry's attorney's fees and costs. Johnson Purry has had several surgeries with medical bills of more than \$110,000. Johnson Purry alleges wage losses of \$150,000.00 and claims to have lasting injuries as a result of this incident.

Financial and budgetary impacts:

The financial impact of this ordinance will be a payment of \$250,000.00 from the Insurance and Claims Fund.

Community impacts and community involvement:

The City Attorney's Office and Risk Management have determined that seeking public involvement for claims and lawsuit settlements would not be appropriate.

Budgetary Impact Worksheet

Does this action change appropriations?

☐ **YES:** Please complete the information below.

☒ **NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount