

RESOLUTION No. 37092

Authorize City Attorney to seek clarification regarding Order entered in United States of America v. City of Portland concerning the U.S. Department of Justice Settlement Agreement and the Portland Police Bureau (Resolution)

WHEREAS, The City Council is entrusted by the community with responsibility for properly managing the City's police bureau; and

WHEREAS, The United States Department of Justice Civil Rights Division and the United State Attorney for Oregon (USDOJ) work to ensure that local police departments have constitutional policing practices; and

WHEREAS, The City and USDOJ entered into a Settlement Agreement to safeguard the constitutional rights of persons who contact police officers during a mental health crisis; and

WHEREAS, Community trust in policing in Portland depends on the City's elected officials demonstrating that they are committed to the values embodied in the Agreement and are capable of fully implementing it; and

WHEREAS, Having the City's elected officials directly responsible for oversight of the Agreement ensures that the public knows who is responsible and accountable for managing the police bureau in conformance with the community's values; and

WHEREAS, In December 2012, the City and USDOJ submitted the Settlement Agreement for the Court's approval as well as a stipulated order dismissing the case; and

WHEREAS, The Settlement Agreement is a legally enforceable contract between the City and the United States; and

WHEREAS, The stipulated order entering the Agreement contained a customary condition asking the court to act as the judge in any future contract disputes between the parties but otherwise did not request court involvement; and

WHEREAS, On August 28, 2014 the District Court approved the Settlement Agreement as "fair, reasonable, and adequate," dismissed the case, but also entered an Order imposing additional conditions which the City had not reviewed or accepted; and

WHEREAS, One of the conditions in the Order is a requirement that the City, the Compliance Officer and Community Liaison (COCL), and additional parties, appear at hearings whenever called by the Court and produce any evidence directed by the Court; and

WHEREAS, The City seeks clarification on the authorized frequency, scope, procedure, and evidentiary burdens the court can impose in these hearings; and

WHEREAS, The legal procedure for seeking clarification is through an appeal, writ of mandamus, or writ of prohibition; and

WHEREAS, The City is not challenging the terms of the Settlement Agreement; and

WHEREAS, The City will comply with all court orders pending appeal; and

WHEREAS, The City is not asking to stay implementation of the Settlement Agreement or the Order; and

WHEREAS, The City and its police bureau have been implementing the reforms in the Settlement Agreement for several years at the same time as the City fought for the court's approval of the Settlement Agreement; and

WHEREAS, It has been and will remain the policy of the City to vigorously implement and adhere to the reforms of the Settlement Agreement regardless of any court proceedings related to it; and

NOW, THEREFORE, BE IT RESOLVED, the City Attorney or her designee is authorized to file an appeal, mandamus, or writ of prohibition of the August 28, 2014 order in *United States of America v. City of Portland*, United States District Court No. 3:12-cv-02265-SI, and to pursue it to its conclusion in any higher court, and, in furtherance of such appeal, mandamus, or writ is authorized to make any stipulation, agreement or admission as in her judgment may be in the best interest of the City.

Adopted by the Council: OCT 22 2014

Mayor Hales; and
Commissioner Amanda Fritz
Prepared by: Ellen Osoinach
Date Prepared: October 16, 2014

LaVonne Griffin-Valade
Auditor of the City of Portland

By



Deputy

SE052

1110

Agenda No. 370 92

RESOLUTION NO.

Title

1190

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concerning the U.S. Department of Justice and the Portland Police Bureau

<p>INTRODUCED BY Commissioner/Auditor: Mayor Hales/Commissioner Fritz</p> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales <i>[Signature]</i></p> <p>Position 1/Utilities - Fritz <i>[Signature]</i></p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p> <p>BUREAU APPROVAL</p> <p>Bureau: City Attorney Bureau Head: Tracy Reeve <i>[Signature]</i></p> <p>Prepared by: Ellen Osoinach Date Prepared: October 16, 2014</p> <p>Financial Impact Statement & Public Involvement Statement</p> <p>Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan</p> <p>Council Meeting Date Oct. 22, 2014 2PM</p>	<p>CLERK USE: DATE FILED <u>OCT 17 2014</u></p> <p style="text-align: right;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN:</p>
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AGENDA
<p>TIME CERTAIN <input checked="" type="checkbox"/> Start time: 3:30 PM</p> <p>Total amount of time needed: 15 (for presentation, testimony and discussion)</p>
<p>CONSENT <input type="checkbox"/></p>
<p>REGULAR <input type="checkbox"/> Total amount of time needed: (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	—	
3. Saltzman	✓	
4. Novick	✓	
Hales	✓	