

RESOLUTION No. 37097

Authorize City Attorney to appeal the Judgment in *Michael Boyle v. City of Portland*, Multnomah County Circuit Court Case No. 1305-07824 (Resolution).

WHEREAS, *Michael Boyle* sued the City of Portland alleging multiple claims arising out of his layoff from the Portland Bureau of Transportation Maintenance Section as a "Sr. Public Works Supervisor," and his subsequent attempts to obtain other employment with the City of Portland;

WHEREAS, Mr. Boyle prevailed at trial only on his Second Claim for Relief, "Failure to provide veteran's preference in public employment [pursuant to] ORS 408.230,"

WHEREAS, The jury returned a verdict in Mr. Boyle's favor on September 15, 2014, and judgment was entered against the City on November 4, 2014, in the amount of \$176,000 in economic damages, \$50,000 in non-economic damages and \$21,417 "which represents nine percent (9%) per annum simple interest on the amount of award for back pay and benefits from the start date for the Principal Management Analyst position [in the Portland Transportation Bureau Maintenance section] (July 2, 2012) to the date this judgment is signed;"

WHEREAS, *At the time Mr. Boyle applied for City employment, the City's policy was to guarantee an interview for all candidates who 1) provided documentary proof of their veteran's status when submitting application materials for a position, and 2) met the minimum requirements for the job vacancy being filled; the Boyle jury found that Mr. Boyle "prove[d] by a preponderance of the evidence that the [City] failed to give him veteran's preference as required by law in the hiring process;"*

WHEREAS, Risk Management Division of the Portland Bureau of Internal Business Services, the Bureau of Human Resources and the City Attorney's Office seek to appeal the judgment in order to obtain judicial guidance on the meaning of and requirements contained in ORS 408.230 for provision of "veteran's preference" to applicants for City employment who are also veterans of the United States military; and,

WHEREAS, The City Attorney has advised that there is a legitimate basis for appeal;

NOW, THEREFORE, BE IT RESOLVED, the City Attorney or her designee is authorized to appeal the judgment in *Michael Boyle v. City of Portland*, Multnomah County Circuit Court Case No. 1305-07824, and to pursue that appeal to its conclusion in any higher court, and, in furtherance of such appeal, 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:

Commissioner: Mayor Charlie Hales

Prepared by: David Landrum, Sr. Deputy City Attorney

Date Prepared: November 24, 2014



DEC 03 2014

LaVonne Griffin-Valade
Auditor of the City of Portland

By *Susan J. Janssen*
Deputy

Agenda No.
RESOLUTION NO. 37097
Title

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<p>INTRODUCED BY Commissioner/Auditor: Mayor Charlie Hales</p>	<p>CLERK USE: DATE FILED <u>NOV 26 2014</u></p>
<p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - <u>M</u> Hales</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p>	<p align="center">LaVonne Griffin-Valade Auditor of the City of Portland</p>
<p>BUREAU APPROVAL</p> <p>Bureau: City Attorney Bureau Head: Tracy Reeve</p>	<p>By: <u></u> Deputy</p>
<p>Prepared by: Stephanie Harris Date Prepared: 11/24/2014</p>	<p>ACTION TAKEN:</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 <u></u></p>	
<p>Council Meeting Date <u>11/26/2014</u> <u>12/3/2014</u></p>	

AGENDA
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input checked="" type="checkbox"/> <u>Pulled</u></p>
<p>REGULAR <input type="checkbox"/></p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

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