

ORDINANCE No. 18 7751 *As Amended*

*Authorize settlement between Portland Police Association and the City of Portland through its Portland Police Bureau regarding employment claims (Ordinance).

The City of Portland ordains:

Section 1. The Council finds:

1. On August 2, 2013, the Portland Police Association ("PPA") filed PPA Grievance No. 2013-12 ("Sweeney Grievance"), alleging that the City had failed to pay Lonn C. Sweeney's lump sum sick leave into his VEBA upon retirement, consistent with Articles 26.5 and 65.2.3 of the PPA collective bargaining agreement ("CBA").
2. The City denied the Sweeney Grievance, which was then referred to arbitration. The primary issue in dispute was the definition of the term "retirement" and whether that meant, as the City alleged, direct retirement from City employment or, as the PPA alleged, retirement under the City's Fire Police Disability Retirement system ("FPDR").
3. On March 11, 2015, the PPA filed PPA Grievance No. 2015-03 ("Medical Separation/Layoff Grievance"), alleging that the City had unilaterally ended a past practice whereby PPA members received cash pay outs or VEBA contributions for accumulated sick leave upon medical separation or layoff, in violation of Article 3 (Existing Standards Clause) of the CBA.
4. The City denied the Medical Separation/Layoff Grievance, which the parties then tolled pending settlement discussions.
5. The parties now desire to compromise and settle these two grievances. A copy of the proposed Settlement Agreement is attached to this Ordinance as Exhibit A.
6. As part of the proposed settlement, the City shall deposit into Lonn C. Sweeney's VEBA account, on a pre-tax basis, the amount of \$37,145.22, which is the agreed upon amount that would have been deposited to Sweeney's VEBA account in accordance with Articles 26.5 and 65.2.3 of the CBA if Sweeney's retirement under FPDR met the requirements for payout of accrued but unused sick leave under the CBA.
7. Under the terms of the Settlement Agreement, effective January 1, 2016, and prospectively thereafter, for every PPA member who is medically separated from the Portland Police Bureau ("Police Bureau" or "PPB") as a result of a service connected injury or medical condition the City shall contribute to the PPA VEBA Trust, to the credit of that PPA member and on a pre-tax basis, an amount equal in value to 100% of the payments that would otherwise have been credited to that PPA member for accrued but unused sick leave under Articles 26.5 and 65.2.3 of the CBA.

8. Under the terms of the Settlement Agreement, PPA members who are separated from the Police Bureau for reasons other than a service connected injury or medical condition or retirement from the City are not eligible for payout of unused sick leave pursuant to the Settlement Agreement or otherwise under the CBA.
9. Under the terms of the Settlement Agreement, the PPA agrees to withdraw the Sweeney Grievance and the Medical Separation/Layoff Grievance with prejudice and not to file or prosecute any grievances for the cash out or credit of unused sick leave on behalf of any other PPA members who were medically separated from the Police Bureau prior to January 1, 2016.
10. PPB and the City Attorney's Office recommend acceptance of the proposed settlement.
11. Per PCC 3.15.050, the Director of the Bureau of Human Resources has reviewed and approved the proposed settlement.

NOW, THEREFORE, the Council directs:

- a. The Mayor, the Police Chief and the Director of the Bureau of Human Resources are authorized to enter into and execute the Settlement Agreement in the form attached to this Ordinance as Exhibit A, subject to approval as to form by the Office of the City Attorney.
- b. The Mayor and the Auditor are authorized to take all appropriate steps to effectuate the deposit into the PPA VEBA Trust, to the credit of the account of Lonn C. Sweeney, on a pre-tax basis, the amount of \$37,145.22.
- c. The Police Bureau shall execute a payment authorization in the amount set forth in sub-paragraph (b) above.

Section 2. The Council declares that an emergency exists in order to avoid undue and costly delay in settling this claim; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council: MAY 18 2016

Commissioner: Mayor Charlie Hales
Prepared by: Mark Amberg
Date Prepared: May 4, 2016

Mary Hull Caballero
Auditor of the City of Portland
By


Deputy

* Authorize settlement between Portland Police Association and the City of Portland through its Portland Police Bureau regarding employment claims (Ordinance).

INTRODUCED BY Commissioner/Auditor: Mayor Hales	CLERK USE: DATE FILED <u>MAY 10 2016</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Hales	Mary Hull Caballero Auditor of the City of Portland By: <u>[Signature]</u> Deputy ACTION TAKEN:
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Novick	
BUREAU APPROVAL Bureau: Police Bureau Bureau Head: Lawrence P. O'Dea III	
Prepared by: Mark Amberg Date Prepared: May 4, 2016	
Financial Impact Statement & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <u>[Signature]</u>	
Council Meeting Date: May 18, 2016	

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

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	✓	