

ORDINANCE No. 188005

*Pay claim of PMK (a minor) through his mother and father in the sum of \$89,000 involving the Police Bureau (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The City Attorney's Office has reached a settlement agreement pertaining to a claim asserted against the City by PMK (a minor) through his mother and father. This settlement is subject to the approval of the City Council.
2. PMK (a minor) through his mother and father, represented by attorney Sean J. Riddell, asserted a claim against the City under several theories for damages arising from the circumstances of the minor's birth on July 6, 1998 to a City employee.
3. The employee had worked as a Portland Police officer (hereafter "The employee") since January 5, 1989, and had reported being bitten, stuck with needles during arrests, or exposed to a suspect's blood approximately seven times between June 20, 1990 and July 23, 2002. At least three of those suspects admitted to having been diagnosed with Hepatitis at some point in the past.
4. On June 15, 2011, the employee was diagnosed with Hepatitis C during a routine physical examination.
5. The employee worked from 1990 until approximately 1996 as an undercover officer buying drugs from dealers without any safety precautions in place to prevent exposure to blood borne pathogens, or any testing protocol in place to verify such exposure.
6. Sometime after 1996, the employee worked as a patrol officer in the same neighborhood, where her primary duties included arresting drug dealers and users. Eventually gloves were provided for the employee's protection while handling needles and other drug paraphernalia.
7. The employee was not tested for Hepatitis at any time prior to 2011, either by the Police Bureau or of her own accord.
8. The employee reported that she had never been stuck by a needle outside of work, never used IV drugs, never had any blood transfusions or tattoos, never shared needles or syringes, and had never had sexual contact with an infected person.
9. At the time of her diagnosis, the employee had been married for thirteen years. The spouse's Hepatitis test was negative. However, of her three children, PMK tested positive for Hepatitis C.

10. Given the uncertainty of the origins of the Hepatitis C, the City retained the advice of a medical expert in infectious diseases.
11. The medical expert concluded to a reasonable degree of medical certainty that the employee's Hepatitis was contracted during her work in the course of her duties with the Portland Police Bureau.
12. Additionally, to a reasonable degree of medical certainty, PMK's Hepatitis C was contracted in utero from his city employee mother.
13. There is risk the City may be found liable under the theories asserted by counsel. Therefore, in order to avoid the risk of an adverse award, we feel it is prudent to settle the claim at this time.
14. Treatments currently available for Hepatitis C include drugs, such as Sovaldi, which require one dose per day for twelve weeks. Each dose costs \$1,000. The entire twelve week regimen totals \$84,000.
15. Based on these costs, the City Attorneys Office recommends a settlement of \$89,000 (\$84,000 for the medication and \$5,000 for miscellaneous court filings and fees), subject to the claimant providing the City with a full release in a form to be approved by the City Attorney.
16. The employee has attested to making a reasonable inquiry into the ability of the proposed settlement to fully compensate the minor, PMK, and has attested to the reasonableness and sufficiency of this settlement agreement in accordance with ORS 126.725 (Settlement Agreement on Behalf of Minor).

NOW, THEREFORE, the Council directs:

- a. The Mayor and the Auditor hereby authorize the Portland Police Bureau to draw and deliver a check in the amount of \$89,000 made payable to the Trust Account of Sean J. Riddell.
- b. The Portland Police Bureau will execute a payment authorization in the amount set forth in sub-paragraph (a) 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:

SEP 28 2016

Mayor Hales

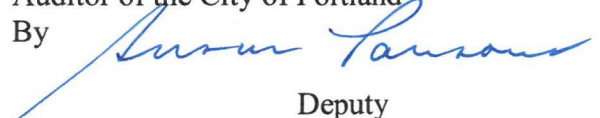
Prepared by: J. Scott Moede

Date Prepared: September 1, 2016

Mary Hull Caballero

Auditor of the City of Portland

By



Deputy

1070

Agenda No. **188005**
ORDINANCE NO.
 Title

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involving the Police Bureau

INTRODUCED BY Commissioner/Auditor: <i>Hales</i>	CLERK USE: DATE FILED <u>SEP 20 2016</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Hales Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Novick	Mary Hull Caballero Auditor of the City of Portland By: <i>[Signature]</i> Deputy ACTION TAKEN:
BUREAU APPROVAL Bureau: City Attorney's Office Bureau Head: Tracy Reeve Prepared by: J. Scott Moede <i>JS</i> Date Prepared: September 12, 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 Council Meeting Date September 21, 2016	

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input checked="" type="checkbox"/>
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 <input checked="" type="checkbox"/>	
2. Fish	2. Fish <input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman <input checked="" type="checkbox"/>	
4. Novick	4. Novick <input checked="" type="checkbox"/>	
Hales	Hales <input checked="" type="checkbox"/>	