

FOR IMMEDIATE RELEASE

Friday, December 15, 2017

Contact: Sonia Schmanski (503) 823-6656

Joint Statement Regarding Settlement of Ratepayer Lawsuit

Today Mayor Ted Wheeler, Commissioner Nick Fish, and attorney John DiLorenzo announced that the City of Portland has reached a tentative settlement with plaintiffs, subject to Portland City Council approval, in a long-running lawsuit challenging the City's ability to expend ratepayer funds. The settlement will be formally considered by the City Council on Wednesday, December 20.

Under the terms of the \$10 million settlement, the City will transfer \$7 million from the General Fund to the utility funds, with the remainder paid to Plaintiffs' legal counsels' law firm, Davis Wright Tremaine, for their attorneys' fees.

In 2011, plaintiffs Lloyd Anderson (now deceased), Paige Craford and Millard Christner filed a lawsuit in Multnomah County Circuit Court claiming that certain City expenditures from the sewer and water funds were not authorized under the Portland City Charter. The challenged expenditures began as early as 1988, and most date from the early-2000s.

The challenged expenditures included 12 categories of Bureau of Environmental Services' programs and projects, including the City's investigation costs at the Portland Harbor Superfund Site; and 24 categories of Water Bureau expenses.

Mayor Wheeler is pleased that the matter is headed towards a conclusion. "I applaud Commissioner Fish, our City Attorneys, and all parties for ending a years-long dispute by arriving at a fair settlement. I am particularly glad that this settlement affirms the good work the City has done on the Portland Harbor Superfund site, and am optimistic that we can continue to move forward to clean up that portion of the Willamette River."

"I'm pleased that the Court upheld the vast majority of the City's investments – including on the Portland Harbor Superfund site – and that this settlement brings an end to years of expensive litigation," said Commissioner Fish. "My top priority continues to be providing basic services at a fair price, and investing ratepayer dollars wisely."

Between 2012 and 2016, the parties litigated over 16 categories of challenged expenditures and agreed that several other categories could be dismissed from the suit due to the City's repayment of those expenditures. Additionally, Plaintiffs dismissed their challenges to 16 other categories, pending a possible appeal of the standard of review applied by Circuit Court Judge Stephen K. Bushong.

In 2017, Judge Bushong ruled that the City must reimburse the utility bureaus \$17 million for expenditures of ratepayer funds on seven of the challenged categories. Those categories were assistance to the City of New Orleans' damaged water system after Hurricane Katrina under a mutual aid agreement; contributions to finance political campaigns; construction of the Portland Loos; construction at Dodge Park; expenditures at Powell Butte on park amenities; the construction of "hydroparks" on Water Bureau properties throughout the City; and Bureau of Environmental Services' payments to the Parks Bureau for certain services, such as invasive species control, on City property.

City Attorney Tracy Reeve believes the settlement is a fair resolution after several years of active litigation between the parties. "While the City continues to respectfully disagree with some of the court's rulings in this matter, I am satisfied that this settlement is fair and equitable to the City and its ratepayers. I also believe that there is substantial value in resolving this matter without the inherent risk and time commitment of an appeal."

John DiLorenzo, attorney for the plaintiffs, said: "This settlement is fair for the ratepayers. It brings to a conclusion a 6-year effort to protect dedicated ratepayer funds. I thank Mayor Wheeler and Commissioner Fish for their good faith and take this as a sign that future City Councils will be circumspect when they approve expenditures from those dedicated funds, and will consider the spirit of Judge Bushong's rulings during the 6-year course of this case."

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