

APRIL 23, 2020

CLOSED SESSION REPORTED OUT FINAL DECISION

Date of Meeting: *Thursday, April 23, 2020*

Litigation Negotiations

NAME OF ACTION:

Kelly Pawlik, individually & as successor-in-interest to Decedent Joshua Pawlik v. City of Oakland, William Berger, individually & in his official capacity as police officer for City of Oakland; Brandon Hraiz, individually & in his official capacity as police officer for City of Oakland; Craig Tanaka, individually & in his official capacity as police officer for City of Oakland; Francisco Negrete, individually & in his official capacity as police officer for City of Oakland; and DOES 1-50 individually & in their official capacities as police officers for the City of Oakland, inclusive

United States District Court, Case No. C19-617 WHA

This matter is listed as **Item No. 2(a)** on the Closed Session Agenda:

The council unanimously authorized settlement in the amount of **\$1,400,000.00**

This case arose out of incidents occurring on **March 11, 2018**

FACTS/ISSUES:

On March 11, 2018, at approximately 6:12 p.m., a report was made to Oakland's 911 center that a man, later identified as Joshua Pawlik, was lying on the ground between two houses on 40th street in Oakland. The caller reported that he could not tell if Mr. Pawlik was breathing but he did not check because the caller saw what the caller thought was a pistol in Mr. Pawlik's hand. An officer arrived at 6:17 p.m. and reported that Mr. Pawlik was asleep or unconscious as reported in the 911 call, and that he saw a pistol in Mr. Pawlik's right hand that another officer with binoculars identified as a semi-automatic pistol. Sometime after a number of officers arrived at the scene, Mr. Pawlik awoke and the officers issued a series of repeated commands directing Mr. Pawlik not to move, to put his hands up and to take his hand off the gun, in English and Spanish. The officers reported that they fired shots and beanbags at Mr. Pawlik when he raised a gun towards them. Unfortunately, Mr. Pawlik did not survive.

Mr. Pawlik's mother, Kelly Pawlik, sued the City alleging that Mr. Pawlik did not present an immediate threat that justified the use of deadly police force. Ms. Pawlik seeks damages—including for her loss of care, comfort, and society—as a result of her son's death. This settlement will resolve all claims in this matter.

Motion Made by: **Councilmember Lynette Gibson McElhaney**

Motion Seconded by: **Councilmember Noel Gallo**

AYES: Fortunato Bas, Gallo, Gibson McElhaney, Kalb, Reid, Taylor, Thao and President Kaplan= 8

NOES: Fortunato Bas, Gallo, Gibson McElhaney, Kalb, Reid, Taylor, Thao and President Kaplan=

ABSENT: Fortunato Bas, Gallo, Gibson McElhaney, Kalb, Reid, Taylor, Thao and President Kaplan=

ABSTENTIONS: Fortunato Bas, Gallo, Gibson McElhaney, Kalb, Reid, Taylor, Thao and President Kaplan=