

DECEMBER 10, 2020

CLOSED SESSION REPORT OF FINAL ACTION

Date of Meeting: *Thursday, December 10, 2020*

Anticipated Litigation

NAME OF ACTION:

Claim of Todd Johnson

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

The council authorized settlement in the amount of \$ **45,000**

This case arose out of incidents occurring in **April 7, 2019**

FACTS/ISSUES:

On April 7, 2019, at approximately 10:15 pm, Mr. Johnson rode an electric Lime scooter on the 1500 block of 3rd Avenue. While traveling less than 15 mph with the headlights on, the scooter hit a deep pothole in the roadway. Mr. Johnson lost his balance and landed on the pavement, sustaining a multiple fracture of his left elbow. He went to the emergency room immediately after the incident and had surgery three days later during which metal pins, rods, screws, and plates were inserted into his elbow to stabilize the fracture. Seven months later, Mr. Johnson underwent a second surgery to remove the hardware due to pain and reduced range of motion in the elbow. Mr. Johnson submitted a claim for medical expenses to date of \$34,937.47. This settlement will resolve all claims in this matter.

Motion Made by: **Councilmember Gallo**

Motion Seconded by: **Councilmember Taylor**

AYES: Fortunato Bas, Gallo, ~~Gibson McElhaney~~, Kalb, Reid, Taylor, Thao and President Kaplan= **7**

NOES: Fortunato Bas, Gallo, Gibson McElhaney, Kalb, Reid, Taylor, Thao and President Kaplan= **0**

ABSENT: ~~Fortunato Bas, Gallo, Gibson McElhaney, Kalb, Reid, Taylor, Thao and President Kaplan~~= **1**

ABSTENTIONS: Fortunato Bas, Gallo, Gibson McElhaney, Kalb, Reid, Taylor, Thao and President Kaplan= **0**

DECEMBER 10, 2020

CLOSED SESSION REPORT OF FINAL ACTION

Date of Meeting: *Thursday, December 10, 2020*

Anticipated Litigation

NAME OF ACTION:

City of Oakland v. Southwest

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

The council authorized acceptance of a settlement from defendant in the amount of **\$53,000**.

This case arose out of incidents occurring in **2017**.

FACTS/ISSUES:

In 2017 the City received a complaint that Southwest Airlines' ("Southwest") sick leave policies and practices violated Oakland's Paid Sick Leave Ordinance, Measure FF, passed by voters in November 2014. Specifically, the complaint alleged that ground crew and flight attendant employees based at Oakland International Airport were not accruing sufficient sick leave and their sick leave banks were being unlawfully "zeroed out" at the end of each calendar year in violation of Oakland Municipal Code ("OMC") section 5.92.030. The complaint alleged that these sick leave policies and practices occurred back to 2015 when Oakland's ordinance implementing Measure FF went into effect.

Following significant investigation of the facts, the City Attorney's entered into prolonged pre-litigation settlement discussions with Southwest. The City Attorney's Office and Southwest reached an agreement in principle as to ground personnel, which requires that Southwest (1) pay civil penalties to the City; (2) restore earned sick leave for employees; and (3) agree to tolling of claims so that employees may still initiate grievance procedures regarding Southwest's prior policies.

Motion Made by: **Councilmember Bas**

Motion Seconded by: **Councilmember Taylor**

AYES: Fortunato Bas, Gallo, ~~Gibson McElhaney~~, Kalb, Reid, Taylor, Thao and President Kaplan= **7**

NOES: Fortunato Bas, Gallo, Gibson McElhaney, Kalb, Reid, Taylor, Thao and President Kaplan= **0**

ABSENT: ~~Fortunato Bas, Gallo, Gibson McElhaney, Kalb, Reid, Taylor, Thao and President Kaplan~~= **1**

ABSTENTIONS: Fortunato Bas, Gallo, Gibson McElhaney, Kalb, Reid, Taylor, Thao and President Kaplan= **0**

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