

CLOSED SESSION REPORTING OUT FORM

Date of Meeting: **Tuesday, May 6, 2014**

The Council made a final decision in Closed Session on one item of **Litigation:**

NAME OF CASE:

John Wendt v. City of Oakland, et al.

Alameda County Superior Court Case No. RG13666136

This matter is listed as **Item No. 1(d)** on the Closed Session Agenda:

The Council authorized settlement in the amount of **\$69,750**

This case arose out of incidents that occurred in **March, 2011**

FACTS OF THE CASE:

In February, 2011, a neighbor reported Mr. Wendt's 1972 Blazer as a nuisance to the Police Vehicle Abatement Unit, complaining that it was parked in front of his home on Ettrick Street. Police notified Mr. Wendt by posted notice on February 17, 2011, that his vehicle was parked on the street in violation of the City prohibitions against parking Abandoned or Inoperative Vehicles on public or private property in excess of 72 hours, and that it would be removed and scrapped unless abated. Mr. Wendt washed the truck and drove it and parked it in his driveway. Mr. Wendt then received a letter dated February 27, 2011, informing him again that his vehicle was parked in violation of the City's Abandoned or Inoperative Vehicles ordinance, and advised that he could request a hearing, but if he did not do so in 10 days police would remove the vehicle. Mr. Wendt ignored the second notice believing he had abated the problem. The City towed the truck on March 12, 2011. Mr. Wendt then requested a hearing but was denied because he was beyond the deadline. The city destroyed the vehicle on March 22, 2011.

Mr. Wendt filed a civil rights lawsuit asserting due process and other claims, alleging he was denied due process because the sticker and letter were confusing and because he sought a hearing the moment that his truck was towed but never received one.

To avoid further litigation and contain costs, the parties have agreed to this settlement which covers the estimated value of Mr. Wendt's truck, his damages and attorneys' fees.

Motion Made by: Councilmember Rebecca Kaplan

Motion Seconded by: Councilmember Noel Gallo

AYES: Brooks Gallo ~~Gibson Mcelhaney~~ Kalb Kaplan Reid Schaaf President Kernighan =**6**

NOES: Brooks Gallo Gibson Mcelhaney Kalb Kaplan Reid Schaaf President Kernighan =

ABSENT: ~~Brooks Gallo Gibson Mcelhaney Kalb Kaplan Reid Schaaf President~~ Kernighan =**2**

ABSTENTIONS: Brooks Gallo Gibson Mcelhaney Kalb Kaplan Reid Schaaf
President Kernighan =

CLOSED SESSION REPORTING OUT FORM

Date of Meeting: **Tuesday, May 6, 2014**

The Council made a final decision in Closed Session on one item of **Anticipated Litigation:**

NAME OF CASE:

Claim of Edward Rinne
Claim No. C29970

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

The Council authorized settlement in the amount of **\$14,520**

This case arose out of incidents that occurred on **February 8, 2014**

FACTS OF THE CASE:

A City sanitary sewer main backed up and untreated effluent flooded the property located at 6490 Ascot Drive. Raw sewage flowed into the bathroom and carpeting on the lower level. This settlement covers the costs of clean up, reconstruction and replacement of damaged items.

Motion Made by: Councilmember Noel Gallo

Motion Seconded by: Councilmember Rebecca KAplan

AYES: Brooks Gallo ~~Gibson Mcelhaney~~ Kalb Kaplan Reid Schaaf President Kernighan =**6**

NOES: Brooks Gallo Gibson Mcelhaney Kalb Kaplan Reid Schaaf President Kernighan =

ABSENT: ~~Brooks Gallo Gibson Mcelhaney Kalb Kaplan Reid Schaaf President Kernighan~~ =**2**

ABSTENTIONS: Brooks Gallo Gibson Mcelhaney Kalb Kaplan Reid Schaaf President Kernighan =