

**THE CITY OF OKLAHOMA CITY
OFFICE OF
THE MUNICIPAL COUNSELOR**

Council Agenda
Item No. XI. Q
5/6/2025

TO: Mayor and City Council

FROM: Kenneth Jordan, Municipal Counselor

1. Resolution authorizing the Municipal Counselor to confess Judgment without admitting liability in the case of *Erick Moser, Kasey Moser and Erick Moser and Kasey Moser, as Next Friend and Natural Parents of B.E.M. and B.E.M., Minor Children v. City of Oklahoma City* in the Oklahoma County District Court Case No. CJ-2022-5070;

AND/OR

2. Enter into executive session on advice of the Municipal Counselor to receive confidential communications from its attorney regarding settlement of this case as authorized by 25 O.S. (2024 Supp.) § 307(B)(4), because disclosure would seriously impair the ability of the public body to conduct the litigation with settlement discussions in the public interest.

On October 14, 2022, Plaintiffs, represented by Jim Buxton and Blair Sutter, filed the above action alleging negligence and nuisance against the City of Oklahoma City. Plaintiffs allege, on June 27, 2022, a wastewater flood occurred at their residence at 3224 Rosewood Lane. On October 6, 2023, the District Court sustained the City's Motion for Summary Judgment. The Court of Civil Appeals reversed this decision on October 31, 2024. This matter was then set for a jury trial on June 23, 2025. The City is represented by Assistant Municipal Counselor Katie Goff.

Plaintiffs documented real and personal property damages totaling \$87,514.60. The Plaintiffs also allege nuisance damages which include the annoyance, inconvenience and discomfort allegedly caused by the wastewater flood. Plaintiffs also allege a loss of value in the property when sold by non-party Erick Moser Properties, LLC.

The parties participated in a Court ordered mediation on August 7, 2023, but did not reach an agreement. When the case was set for a jury trial, the parties were again ordered to mediation which was set to occur on April 14, 2025. In anticipation of the Court ordered mediation, counsel for both parties engaged in informal settlement communications wherein the Plaintiffs agreed to accept, and this office agreed to recommend, as a full and final settlement of all claims in this matter, \$150,000.

It is the recommendation of this office that the Mayor and Council authorize the Municipal Counselor to confess judgment in favor of Plaintiffs without admitting liability in this case. A Resolution authorizing the Municipal Counselor to prepare, execute, and file the necessary paperwork is attached. If Council would like more information regarding this case, it is the recommendation of the Municipal Counselor that Council retire into executive session with the Municipal Counselor to receive confidential communications with its attorney regarding this possible settlement.