

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

Council Agenda
Item No. XI. AA
12/31/2024

TO: Mayor and City Council

FROM: Kenneth Jordan, Municipal Counselor

1. Joint Resolution with the Oklahoma City Municipal Facilities Authority authorizing Jessica L. Dark, Jeffrey C. Hendrickson, and W. Riley Nester of Pierce Couch Hendrickson Baysinger & Green, LLP, to represent and defend City employee James P. Linn, II, in the case of *Steven Baker v. The City of Oklahoma City et al.*, United States District Court for the Western District of Oklahoma, Case No. CIV-24-763-R;

AND/OR

2. Enter into executive session on advice of the Municipal Counselor to receive confidential communications from its attorney concerning the above pending litigation, 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 pending litigation in the public interest.

Background:

On July 26, 2024, Plaintiff filed his Complaint alleging *inter alia* that the above-referenced City employee violated his civil rights under 42 U.S.C. § 1981 when he was terminated from employment after an investigation found policy violations.

On September 6, 2024, Plaintiff served James P. Linn, II with a copy of this lawsuit. James P. Linn, II, was employed by the City and assigned to its Utilities Department at the time of the Plaintiff's termination. James P. Linn, II, has asked that Jessica L. Dark, Jeffrey C. Hendrickson, and W. Riley Nester, be appointed to represent him in this litigation.

11 Okla. Stat. § 23-101 states:

- A. Unless otherwise provided for in the Governmental Tort Claims Act, if an action is brought against a municipal employee in any civil action or special proceeding in the courts of this state or of the United States by reason of any act done or omitted in good faith in the course of employment, the governing body of the municipality shall direct the municipal attorney or other designated legal counsel to appear and defend the action or proceeding on the behalf of the employee in accordance with the provisions of Section 23-102 of this title. . .

11 O.S. §§ 23-101 and 23-102 provide that before the municipality provide a defense for an employee, the City Council must make an inquiry to determine if the employee was acting in good faith and in the course of his employment. From the facts of this case as is now known, it appears that James P. Linn, II, was acting in good faith and in the course of his employment with the City.

Therefore, it is the recommendation of this office that the Council approve the requests of James P. Linn, II, to be defended by Jessica L. Dark, Jeffrey C. Hendrickson, and W. Riley Nester. Should you so decide, a Joint Resolution approving his request is attached for your consideration. If you should require more information, it is the recommendation of this office that Council retire into executive session with the Municipal Counselor.