

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

Council Agenda
Item No. XI. Z. 1&2
4/26/2022

TO: Mayor and City Council

FROM: Kenneth Jordan, Municipal Counselor

1. Resolution authorizing Sherri Katz and Thomas L. Tucker, Assistant Municipal Counselors, to represent and defend City employee Wade Gourley in the case of *Laquita Bruner, as administrator of the Estate of Dawawn Q. McCoy v. The City of Oklahoma City, et al.*, United States District Court for the Western District of Oklahoma Case No. CIV-22-199-HE;

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. (2021) §307(B)(4), because disclosure would seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation or proceeding in the public interest.

On March 10, 2022, Plaintiff filed a lawsuit in the Western District of Oklahoma. The Plaintiff is the Administrator of the Estate of Dawawn McCoy, who claims The City of Oklahoma City and City employees are liable for the death of Mr. McCoy under theories of excessive force and supervisory liability under 42 U.S.C. §1983. The incident occurred on March 27, 2020. Plaintiff included Oklahoma City Police Department Police Chief Wade Gourley as a Defendant in this action.

Chief Gourley was employed by The City as the police chief at the time of the incident, and he has been named as a defendant in this case. Further, Chief Gourley has asked that Sherri Katz and Thomas L. Tucker be authorized to represent him in this case.

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 Chief Gourley 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 request of this employee to be defended by Sherri Katz and Thomas L. Tucker. Should you so decide, a 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.