

RESOLUTION NO. 2489

A RESOLUTION APPROVING REIMBURSEMENT OF LEGAL DEFENSE EXPENSES TO RICH ALLEN FOR THE MATTER OF EASTWINDS DEVELOPMENT VS. ALLEN, PURSUANT TO THE ADOPTED PUBLIC BODY LEGAL DEFENSE POLICY.

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. That the Oregon Revised Statutes (ORS) 30.285(1) requires the City to defend its officers, employees and agents, whether elective or appointive, against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of duty.
2. That ORS 30.287(1) requires that subsequent to an investigation that defense counsel shall be provided for a cause of action from an alleged act or omission occurring in the performance of duty.
3. That elected officials in Troutdale are selected by the voters to serve as their representatives, and are to communicate with the voters through various methods on matters of public policy being considered by the City Council, and that part of their duties is to make policy decisions, and some parties may oppose those decisions and pursue legal action.
4. That in accordance with obligations of ORS 30.285(1) the City Council adopted January 24, 2017 through Resolution No. 2369, a policy to provide for legal defense of an elected official, including the necessary investigation and determination that the claim or demand arises out of an alleged act or omission occurring in the performance of their duty.
5. That in accordance with the adopted policy and compliance with the requirements of ORS 30.285(1), City staff conducted an investigation of the claim tendered by Rich Allen, and in January 2017 found that the actions of Mr. Allen alleged in the lawsuit of Eastwinds Development vs. Allen were within the performance of his duty as a city elected official, and therefore are covered by the adopted public body legal defense policy, and pursuant to ORS 30.287(1) the City is to provide for legal defense in this matter.
6. That the City expresses no opinion or judgement on either the merits, or lack thereof, of the lawsuit of Eastwinds Development vs. Allen, or on the opinion or positions expressed by Mr. Allen in the Northwest Connection article.
7. The partial defense of this claim accepted by the City is not to be deemed a waiver of any defenses or immunities, nor of any limits on the monetary amount of liability applicable, and the City has expressly reserve any and all rights to deny liability, including

by reason of such immunity and to assert any limitation provided by law as to amount of liability.

8. That the lawsuit, *Eastwinds Development LLC, Plaintiff v. The Northwest Connection Enterprises, Inc., and Richard John Allen, Defendants*, in the Circuit Court of the State of Oregon for the County of Multnomah, case number 16 CV 38062, has been settled by the parties, and dismissed by the court.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE:

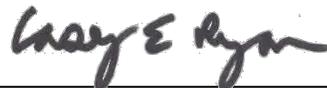
Section 1. That in accordance with the City adopted public body legal defense policy, the obligations of ORS 30.287(1), and the determination that the claim arises out of an alleged act occurring in the performance of Mr. Allen's duty as an elected official, the defense of this claim is accepted by the City.

Section 2. That the requested reimbursement of \$22,743.25 of legal defense costs incurred by Mr. Allen not otherwise paid by insurance coverage, is within the City adopted public body legal defense policy, and reimbursement is hereby approved.

Section 3. That the Finance Director is authorized to disburse funds, as necessary to fulfill the intent of this resolution and is further directed to implement all such actions necessary to ensure budgetary compliance.

Section 4. This Resolution shall take effect immediately upon adoption.

**YEAS: 7
NAYS: 0
ABSTAINED: 0**



**Casey Ryan, Mayor
Date: April 29, 2020**



**Sarah Skroch, City Recorder
Adopted: April 28, 2020**