RESOLUTION NO. 2369

A RESOLUTION ADOPTING A LEGAL DEFENSE POLICY FOR TORT ACTIONS AGAINST PUBLIC BODIES PURSUANT TO THE OBLIGATIONS OF THE OREGON REVISED STATUTES 30.260 THROUGH 30.300.

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 that part of their duties are to make policy decisions, to which some parties may oppose and pursue legal action.

4. That the duties of elected officials in Troutdale in representing the voters include communicating with them, in person, electronically, or through conventional news media methods, on matters of public policy being considered by the City Council.

5. That subject to their cooperation in compliance with ORS 30.287(2) elected officials in Troutdale shall not be expected to face legal action on their own for alleged actions or omissions occurring in the performance of duty.

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

Section 1. In accordance with obligations of ORS 30.287(1) a City Official is authorized and directed to conduct the necessary investigation to determine that the claim or demand arises out of an alleged act or omission occurring in the performance of duty, or that the act or omission complained of amounted to malfeasance in office or willful or wanton neglect of duty.

Section 2. That if the investigation determines that the claim or demand arises out of an alleged act or omission occurring in the performance of duty, then the City Officials are directed to engage defense counsel for the claim.

Section 3. That if the investigation determines that the claim or demand does not arise out of an alleged act or omission occurring in the performance of duty, or has amounted to malfeasance in office or willful or wanton neglect of duty, or both, then the City Officials are directed to meet with City Council in executive session prior to rejection of the defense of claim under ORS 30.827(1).

Section 4. That when defense of a claim is accepted by the City the City Official shall determine the assignment of defense counsel in coordination with City insurance coverage, as applicable.

Section 5. That when defense of a claim is accepted by the City, the subject of the claim shall cooperate fully with the City, defense counsel and, if applicable the insurance carrier, in the defense of such claim.

Section 6. That defense of a claim accepted by the City shall not be deemed a waiver of any statutory immunities, nor of any statutory limits on the monetary amount of liability applicable, and the City does hereby 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.

Section 7. The City Manager, City Attorney, and Finance Director (each a "City Official") are designated to act jointly and cooperatively, and in consultation with special legal counsel as necessary, on behalf of and in the best interest of the City, and without further action by the City Council, the City Officials are hereby, authorized, empowered and directed to assign defense counsel, and if appropriate negotiate the terms of, and to execute, a settlement agreement on behalf of the City.

Section 8. Further, consistent with intent of this resolution, and in the best interest of the City, the City Officials are authorized to determine, negotiate, execute, acknowledge and deliver any subsequent addendums, extension, revisions, modification, or successor documents, and all other required and necessary supporting documents, and to take any other action as may be advisable, convenient, necessary, or appropriate to give full force and effect to the terms and intent of this policy, and the execution thereof by any such City Official shall be conclusive as to such determination.

Section 9. The Finance Director is authorized to disburse funds, as necessary to fulfill the intent of this policy, and any settlements or court orders, and is further directed to implement all such actions necessary to ensure budgetary compliance.

Section 10. This Resolution shall take effect immediately upon adoption.

YEAS: 6
NAYS: 0
ABSTAINED: 0

Casey Ryan

Casey Ryan, Mayor

1/27/17

Date

Sarah Skroch

Sarah Skroch, City Recorder
Adopted: January 24, 2017