

CITY OF GRAND JUNCTION, COLORADO

RESOLUTION NO. 04-26

ACKNOWLEDGING DEFENSE OF OFFICERS ROSARIO TAFOYA, WILLIAM DRESSEL, AND TRAVIS MOESSER, IN CIVIL ACTION NO. 1:25-cv-02779-STV

RECITALS:

A Federal District Court action ("Complaint") has been filed alleging violation of a citizen's rights by employees of the Grand Junction Police Department, Rosario Tafoya, William Dressel, and Travis Moesser (collectively "the Officers"). The Complaint alleges misconduct by the Officers in pursuing a malicious prosecution against the Plaintiff, Mr. Bradley Conley. The Complaint also alleges the Officers violated Plaintiff's First Amendment right to free speech. Mr. Conley's Complaint names the Officers individually and in their official capacities.

Under the provisions of the Colorado Governmental Immunity Act, specifically sections 24-10-110 and 24-10-118 C.R.S. the City has certain indemnification obligations, and it may, if it determines by resolution adopted at an open public meeting that it is in the public interest to do so, defend a public employee against punitive damages claim or pay or settle any punitive damages claim against a public employee. The Plaintiff has asserted claims that the Officers violated the Plaintiff's civil rights by retaliating against his protected speech with a malicious prosecution. The Officers deny the allegations.

The Colorado Governmental Immunity Act ("Act") 24-10-101 et. seq. C.R.S. primarily covers public entities for actions in tort or that could lie in tort and its provisions also extend to public employees. The Act extends to public employees so long as the conduct that is the subject of the lawsuit was (i) within the performance of his duties, (ii) within the scope of his employment and (iii) not done willfully or wantonly.

Because the Officers are named individually, the City presumes that the Plaintiff is intending to seek punitive damages against the Officers and accordingly with this Resolution the City Council acknowledges and provides the defense and indemnification as provided herein.

The Professional Standards Section of the GJPD investigated the allegations set forth in the Complaint. Around 2am on September 5, 2023, Officer Tafoya with the GJPD witnessed a black pickup truck in the parking lot of the Monument View Shopping Center. Due to the early hour, the businesses in the shopping center were closed. The parking lot also had signage stating the parking lot was for customers only. Officer Tafoya approached the vehicle and found that the Plaintiff was inside. Plaintiff stated that he had a right to be in the parking lot. Plaintiff also stated that he was working on construction of the new Dollar Tree Store. Plaintiff refused to identify himself. Officer Tafoya detained the Plaintiff to further investigate him for trespassing. Officer Dressel and Corporal Moesser arrived at the parking lot to assist Officer Tafoya. Through some

investigation, Corporal Moesser determined the Plaintiff was parked in the parking lot belonging to Life Community Church, not the Dollar Tree Store. Corporal Moesser called a representative from Life Community Church who said that the Plaintiff did not have permission to be on church property, and they wished Plaintiff to be charged with trespass. Plaintiff was ultimately charged with trespassing.

Over the course of their interaction with the Plaintiff, the Officers were Colorado certified peace officers duly employed by the Grand Junction Police Department and the Plaintiff has named the Officers individually in the complaint based on and because of their employment by the City. Without question the claims made against the Officers arise out of and in the scope of their employment.

The Chief of Police has determined that the Officers acted lawfully and within policy. That determination, based upon a preponderance of the evidence, considered the following standard: the Officers acted in good faith and upon a reasonable belief that their actions were lawful as the Officers' actions were objectively reasonable based on the totality of the circumstances and consistent with the Department's policy and training. The Chief of Police has presumed that the Officer's actions were objectively reasonable as there is no evidence of intent to violate constitutional rights, or a reckless disregard to violate the Plaintiff's constitutional rights.

In the event the lawsuit is settled, or civil judgment is entered against the Officers, the Chief of Police will review the investigation and any additional information obtained from the lawsuit that he believes may be relevant to the determination of good faith, including judicial determinations, evidence from trial or hearing, and discovery exchanges between the parties to the lawsuit.

The Officers deny the allegations made against them in the complaint and reasonably believe that their conduct was reasonable, lawful and in good faith.

The City has no basis to conclude that the Officers acted willfully and wantonly. They should not have to withstand the claims made against them without protection of the City.

Although it is unlikely that punitive damages claims will be sustained, it is right and proper to adopt this Resolution defending the Officers from the personal claims and liability that may arise out of or under any claim except any that is found to be willful, wanton, or criminal as defined by Colorado law or any violation that was not within the scope of his employment.

Because the City Council has reason to find that the Officers acted within the scope of their employment and because to do otherwise would send a wrong message to the employees of the City, *i.e.*, that the City may be unwilling to stand behind them when an employee is sued for the lawful performance of his/her duties, the City Council adopts this resolution.

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

The City shall pay no judgment or settlement of claim(s) by the Officers where the claim has been compromised or settled without the City's consent.

The City's legal counsel and insurance defense counsel shall serve as counsel to the Officers unless it is credibly determined by such counsel that the interests of the City and the Officers may be adverse. In that event the Officers may select separate counsel to be approved in writing by the City Council. The Officers shall reasonably cooperate with the City in its defense of the claims.

By the adoption of this Resolution the City does not waive any defense of sovereign immunity as to any claim(s) or action(s).

The adoption of this Resolution shall not constitute a waiver by the City of insurance coverage with respect to any claim or liability arising out of or under 1:25-cv-02779-STV or any matter covered by the Resolution.

The purpose of this Resolution is to protect the Officers against personal liability for their lawful actions taken on behalf of and in the best interest of the City.

The Officers have read and affirm the foregoing averments. Consequently, the City Council hereby finds and determines at an open public meeting that it is the intention of the City Council that this Resolution be substantially construed in favor of protection of Officer Tafoya, Officer Dressell, and Corporal Moesser, and together with legal counsel, that the City defend against the claims against the Officers in accordance with 24-10-110 C.R.S. and/or to pay or to settle any punitive damage claims in accordance with law arising out of case 1:25-cv-02779-STV.

PASSED and ADOPTED this 7th day of January 2026.



Cody Kennedy

President of the City Council

ATTEST:



Selestina Sandoval
City Clerk

