

**SEPTEMBER 23, 2021**

**CLOSED SESSION REPORT OF FINAL ACTION**

**Date of Meeting:** *Thursday, September 23, 2021*

Litigation

**NAME OF ACTION:**

**The City of Portland & the City of Oakland v. Merrick Garland, in his official capacity as United States Attorney General, et al.**  
**United States District Court Case No. 3:20-cv-7184-EMC**

This matter is listed as **Item No. 3** on the Closed Session Agenda.

The council authorized settlement and dismissal.

A motion to schedule this settlement resolution to the October 5, 2021 council meeting was moved by Council President Bas, seconded by Councilmember Gallo, and approved by the following votes: 8 Ayes; 0 Nays; 0 absent.

This case arose out of incidents occurring between **June 2020 and January 2021.**

**FACTS/ISSUES:**

In June and July 2020, then-President Trump’s administration took unprecedented steps to create a new policy purporting to authorize the deployment of federal agents to United States cities. The then-President, then-acting Department of Homeland Security (DHS) Secretary Chad Wolf, and then-Attorney General William Barr individually and collectively offered varied and pretextual justifications for the deployments, including citing statutes allowing federal agencies limited authority to protect federal property, and generally citing “violence” and “anarchy” in progressive cities.

Portland, OR, was the most high-profile target of the Trump Administration’s policy, but other cities were subjected to federal agent deployment, including Miami, Seattle, and Chicago, or were repeatedly threatened with such deployments, including Oakland, New York City, and Baltimore.

In October 2020, the City of Oakland joined the City of Portland and a national nonprofit, the Public Rights Project, in filing a challenge to DOJ and DHS. Defendants initially attempted to dismiss the lawsuit. However, after the violent White supremacist insurrection at the U.S. Capitol on January 6, 2021, we filed an amended complaint, adding new assertions about the animating intent of the policy at issue. After President Biden took office, Defendants took a different approach, and President Biden issued a new and crucial executive order, which rescinded the Trump June 2020 executive order that undergirded the policy at issue in our case. With that executive order rescinded and with other key agreements by Defendants about the constitutional matters in the lawsuit, the parties believe it is appropriate to dismiss this case without prejudice, which will resolve all claims against Defendants.

Motion Authorizing Settlement Made by: **Councilmember Gallo**

Motion Seconded by: **Councilmember Fife**

**AYES: Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao, President Fortunato Bas = 8**

**NOES: ~~Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao, President Fortunato Bas~~**

**ABSENT: ~~Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao, President Fortunato Bas~~**

**ABSTENTIONS: ~~Fife, Gallo, Kalb, Kaplan, Reid, Taylor, Thao, President Fortunato Bas~~**