




Office of the City Manager

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INFORMATION CALENDAR

June 11, 2013

To: Honorable Mayor and Members of the City Council  
From:  Christine Daniel, City Manager  
Submitted by: Zach Cowan, City Attorney  
Subject: Settlement of *Koolish v. City of Berkeley*, ACSC No. RG 12 619373

INTRODUCTION

Lawsuit settlements that are authorized in a closed session, but are finalized thereafter, are reported to the Council and the public with an Information Report.

CURRENT SITUATION AND ITS EFFECTS

Pursuant to the Council's authorization in closed session on March 18, 2013 (see attached Resolution), the City Attorney has finalized negotiations of a settlement of \$75,000 in *Koolish v. City of Berkeley*, ACSC No. RG 12 619373.

BACKGROUND

This lawsuit arises from an accident on November 15, 2010 in which the plaintiff, Lynda Koolish, tripped and fell over an old concrete bicycle stand on the sidewalk on the 1500 block of Shattuck. This old-style bike stand is a concrete block with a slot for a bicycle wheel. It is only about six inches high and has not been used on City sidewalks for over 30 years. After the accident, the City removed this concrete bike-stand and one like it on 9<sup>th</sup> Street. No other such bike stands are known to still exist on City sidewalks. Ms. Koolish sustained serious injuries as a result of her fall, which she claims required her to take early retirement from her job as a university professor, in addition to claims for medical bills, and pain and suffering.

POSSIBLE FUTURE ACTION

N/A

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

See above.

CONTACT PERSON

Zach Cowan, City Attorney, 981-6998  
Matthew J. Orebic, Deputy City Attorney, 981-6998

Attachment:  
1: Resolution

## RESOLUTION NO. 66,077-N.S.

AUTHORIZING THE CITY ATTORNEY TO SETTLE PUBLIC LIABILITY LAWSUIT IN THE MATTER OF KOOLISH V. CITY OF BERKELEY, ALAMEDA COUNTY SUPERIOR COURT, ACTION NO. RG 12 619373

WHEREAS, a public liability lawsuit has been filed in the Alameda County Superior Court, Action No. RG 12 619373, against the City of Berkeley by Lynda Koolish arising from a trip and fall accident on November 15, 2010 involving an obsolete bicycle stand left on the sidewalk in front of 1543 Shattuck Avenue, Berkeley; and

WHEREAS, plaintiff in the above-entitled lawsuit alleges that she has sustained personal injuries and damages as a direct result of said accident; and

WHEREAS, at its closed session on March 18, 2013, in accordance with Berkeley Municipal Code section 7.12.020, the City Council authorized the City Attorney to enter into a settlement of this lawsuit; and

WHEREAS, it is in the best interest of the City of Berkeley to settle this lawsuit, and a settlement amount of \$75,000, which includes all attorney's fees, has been reached by the City Attorney and plaintiff and her attorney; and

WHEREAS, this \$75,000 settlement was authorized by the City Council in its closed session on March 18, 2013.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Attorney, in accordance with Section 7.12.020 of the Berkeley Municipal Code, to settle this matter by a total payment of \$75,000 from Public Liability Fund 881 1702 410 3511, to plaintiff Lynda Koolish and her attorney, Matthew Witteman, for the settlement of the above-entitled lawsuit.

The foregoing Resolution was adopted by the Berkeley City Council in closed session on March 18, 2013 by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: Maio and Moore.

Attest:   
Mark Numairville, CMC, City Clerk

  
Tom Bates, Mayor