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Diabetic bodybuilders' suit against Redwood City cops for using 'excessive' force heads to court

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A diabetic bodybuilder's excessive force lawsuit against Redwood City and its police department stemming from a downtown confrontation is heading for trial later this month, after the city council decided Monday not to settle the case.

Doug Burns, 46, a former Mr. Natural Universe, contends he was going into insulin shock outside the Century 20 movie theater on Middlefield Road the evening of April 1, 2007. But a theater employee thought he was under the influence of drugs or alcohol and called police, according to court documents.

Arriving police said they also thought Burns was intoxicated, according to the court documents. One officer said he felt threatened by the 5-foot-9 man's behavior, which included staggering and uttering incomprehensible phrases.

After Burns made contact with one of the cops -- a witness said he stumbled, police said he shoved the officer -- officers pepper-sprayed him, wrestled him to the ground, struck his shoulder with a nunchaku and hit his rib cage with a baton, according to the court documents.

Police then arrested and subsequently charged Burns with resisting arrest and assaulting a police officer. The charges were dropped later due to insufficient evidence.

In June 2008, Burns sued Redwood City and the police officers in U.S. District Court, claiming excessive force, assault and battery, intentional infliction of emotional distress, negligence, intimidation or coercion, and violation of his

civil rights. The lawsuit seeks unspecified monetary

damages.

Burns suffered physical injuries that cause continuing pain, numbness, tingling and weakness, according to his lawyer, Michael Haddad.

Although Redwood City police are trained to identify and handle a diabetic emergency, the arresting officers' progression of force was unnecessary and "excessive," Haddad said.

"The officers failed to follow their training," Haddad said. "They should never assume that someone who seems intoxicated is. They could be having a diabetic emergency."

On Monday, the Redwood City City Council met in closed session to discuss the case. Before the meeting, City Attorney Pamela Thompson told The Daily News that a decision to settle was an unlikely option. She said the city was ready to demonstrate that the officers "acted reasonably under the circumstances."

On Tuesday, city spokesman Malcolm Smith confirmed that the council is backing its police officers. The trial is scheduled for May 31.

"It is going to trial," he said. "No settlement."

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