



# **City of Grand Island**

**Tuesday, February 14, 2017**

**Council Session**

## **Item G-3**

**Receipt of Official Document – Tort Claim filed by Tim and Lisa Spiehs**

**Staff Contact: RaNae Edwards**

# **Council Agenda Memo**

**From:** RaNae Edwards, City Clerk

**Meeting:** February 14, 2017

**Subject:** Receipt of Official Document – Tort Claim filed by Tim and Lisa Spiehs

**Presenter(s):** RaNae Edwards, City Clerk

## **Background**

The City of Grand Island has received a Notice of Tort Claim from Tim and Lisa Spiehs alleging certain claims in connection with the North Interceptor Phase II project and subsequent remedial work done by the city affecting their property located at 909 East Capital Avenue.

Without getting into issues concerning the City's and other parties' liability, and whether the claim of Tim and Lisa Spiehs is fair and reasonable, we are simply providing a copy of this claim to you in compliance with the Nebraska Political Subdivision Tort Claims Act.

For a person to assert a tort claim against the City of Grand Island, a written notice of the claim must be filed with the City Clerk, Secretary or other official responsible for keeping official records. The claim must be filed within one year of the accrual of the claim, and the Council has six months to act on the claim. No suit can be filed until after the Council acts on the claim, or the six months has run.

Historically, the City of Grand Island has simply let the six months run. Not all claims result in a suit being filed, so it makes good sense to not act affirmatively in many instances. In any event, if you wish to look further into this claim, please contact the City Attorney's office, and we will provide you with the information which we have in connection with the claim. Our recommendation is to continue to take no affirmative action on tort claims. It must be emphasized that by providing copies of alleged claims to you, we are not making an admission or representation that a claim has been properly filed in any respect. We also recommend that no comments concerning a particular claim be made during Council meetings, unless you decide to bring the matter on for formal consideration. Even then, we ask that comments be carefully considered so that the legal rights of all parties are preserved.

## **Discussion**

This is not an item for council action other than to simply acknowledge that the claim has been received.

## **Recommendation**

City Administration recommends that the Council take no action other than acknowledge receipt of the claim.

## **Sample Motion**

Move to approve acknowledgement of the Tort Claim filed by Tim and Lisa Spiehs.

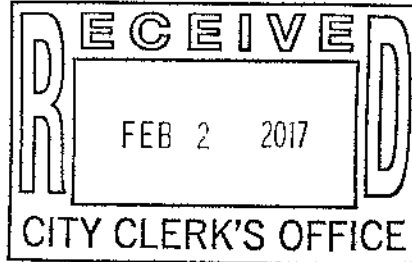
**THE LAW OFFICES OF**  
**Lauritsen, Brownell, Brostrom & Stehlik, P.C.**

A Limited Liability Organization

724 West Koenig Street • P.O. Box 400 • Grand Island, NE 68802-0400 • Telephone: 308-382-8010 • Fax: 308-382-8018  
Established 1915

Kevin A. Brostrom  
Galen E. Stehlik  
Mitchell C. Stehlik

Walter P. Lauritsen (1908-1990)  
John R. Brownell (1942-2005)



February 2, 2017

Renae Edwards  
City Clerk  
100 East First Street  
Grand Island, NE 68801

RE: Claim under the Political Subdivision Tort Claims Act  
by Tim Spiehs and Lisa Spiehs, 909 East Capital Avenue, Grand Island, NE

Dear Renae:

This letter will constitute a claim against the city under the Political Subdivision Tort Claim Act, Neb. Rev. Stat. §§13-901 et. seq.

The city's sanitary sewer construction activity, as well as activities undertaken by the city, have changed the grade and natural flow of the water as it existed prior to the city's project. This involves the North Interceptor Phase II project, and the subsequent remedial work done by the city.

The Spiehs' believe that the excavation and construction work associated with that project caused damage to the Spiehs' septic system, altered the natural flow of drainage into the area, now resulting in additional flow to pass over property owned by the Spiehs'. The Spiehs' believe that the damage occurred outside of the easement area. It appears that the contractors were not aware of the restrictions associated with this project or chose not to follow those restrictions.

Contact has previously been made with the City of Grand Island Attorney, Katrina Delosh at the City's Public Works Department and other representatives of the Public Works Department, yet no resolution to the problem has occurred.

The Spiehs' seek damages as follows:

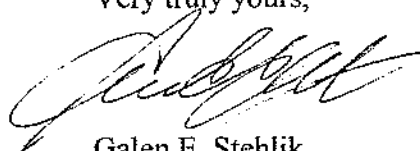
Pump and Hose to pump imploded septic tank	\$1,000.00
Replace Septic tank and leach field - Jon's Plumbing (imploded from heavy equipment striking and vibrating the ground)	\$9,633.09

Pump tank 2 times weekly for 13 months (Oct 2015 thru Oct 2016 done by property owner) (To have pumped by Sewer Rooter is approximately \$250 each time - this is an ongoing expense)	\$6,500.00
Replace dirt that was removed - Hooker Brothers	\$1,710.00
Repair damage to building siding - Bel-Wood Buildings	\$171.70
Replace Sod - Tracy Martin	\$5,616.00
Add concrete curb to stop water from other property draining into ours - LawnSmith & Co	\$19,800.00
Dirt work personally done to try to stop water from going into building	\$6,200.00
Lack of use of property during remediation of damages, and periodic trespassing over Spiehs' property during the project.	\$30,000.00
<b>Sub Total</b>	<b>\$80,630.79</b>

In addition, the Spiehs' seek a commitment from the City to waive any tap fee (estimated to be \$7,500.00) as well as vacate the east west utility easement that is referred to on the plat map files September 11, 2014.

The damages to the Spiehs' property is a continuing problem and the continuing harm results to the Spiehs' property and their property interest.

Very truly yours,



Galen E. Stehlik  
[galens@lauritsenlaw.com](mailto:galens@lauritsenlaw.com)

GES/mjs