



# **City of Grand Island**

**Tuesday, September 25, 2018**

**Council Session**

## **Item G-2**

**Receipt of Official Document – Tort Claim filed by Phillip E. Smith**

**Staff Contact: Jerry Janulewicz**

# **Council Agenda Memo**

**From:** Jerry Janulewicz, City Attorney

**Meeting:** September 25, 2018

**Subject:** Receipt of Official Document – Tort Claim filed by Phillip E. Smith

**Presenter(s):** Jerry Janulewicz, City Attorney

## **Background**

The City of Grand Island has received a Notice of Tort Claim from Phillip E. Smith alleging certain claims in connection with an incident in which the claimant alleges he was injured by a Police Officer of the Grand Island Police Department which occurred on October 31, 2017.

Without getting into issues concerning the City's and other parties' liability, and whether the claim of Phillip E. Smith 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 Phillip E. Smith.

4.27.18

## Claim against the City of Grand Island

Who Is Making the Claim:

Name: Phillip Smith  
Address: 648 Birschfeld St. Grand Island 68801  
Phone: (816) 745 4205

What Happened?

I was assaulted by Officer Justin Roerich of the Grand Island Police Department.

Where did it happen?

Pump & Pantry on Broadwell & College Grand Island, Ne

When did it happen (time and date)?

8:30 pm - 10:30 pm on 10/31/17

What are the damages? (Exact dollar amount of claim; please attach copies of bills, estimates or other appropriate documents.)

Broken Collar Bone. Will submit further documents upon request.

Who do you believe is at fault, and why?

The City of Grand Island, the Grand Island Police Department, and Justin Roerich (See Attached).

Was the incident reported to anyone else? (i.e. Police, Utilities, etc.)

NAACP in Kansas City and Nebraska.  
ACLU, Hospital, and family.

Is there other information not included above?

Attorney will submit upon request.

CC: NAACP, ACLU, and family.

4.27.18

Attachment

Officer Justin Roerich broke my collar bone on the south side of the Pump and Pantry while I was handcuffed on my stomach while on the ground by stomping me in the shoulder blade three times with the heel of his boot.