



City of Grand Island

Tuesday, June 10, 2008

Council Session

Item G2

**Receipt of Official Document - Tort Claim Filed by Great West
Casualty Company**

Staff Contact: Dale Shotkoski

Council Agenda Memo

From: Dale Shotkoski, City Attorney

Meeting: June 10, 2008

Subject: Receipt of Official Document – Tort Claim filed by Great West Casualty Company

Item #'s: G-2

Presenter(s): Dale Shotkoski, City Attorney

Background

The City of Grand Island has received a Notice of Tort Claim from Great West Casualty Company on behalf of their insured vehicle driven by Jeff Raitt, alleging certain claims in connection with an accident which occurred on April 21, 2008 at the intersection of U.S. Highway 281 and State Street in Grand Island, Nebraska.

Without getting into issues concerning the City's and other parties' liability, and whether the claim of Great West Casualty Company, 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

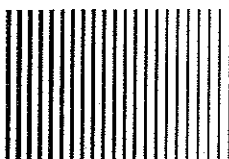
This is not an item for council action other than to simply acknowledge that the claim has been received.

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 Great West Casualty Company.



GREAT WEST

Casualty Company

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South Sioux City, NE 68776-0277 • 402-494-2411

May 22, 2008

DALE SHOTKOSKI
GRAND ISLAND CITY ATTORNEY
100 E 1ST ST
GRAND ISLAND NE 68801



RE: O/File #: C68752-M-926
 O/Insured: Jeff Raitt
 D/Loss: 4/21/08

Dear Mr. Shotkoski:

This letter is sent in reference to an accident that occurred on April 21, 2008 at the intersection of Highway 281 and State Street in Grand Island, Nebraska. Our investigation has revealed that our insured vehicle was traveling northbound on U.S. Highway 281 with a green light. Your city ambulance was traveling eastbound on State Street with a red light and proceeded into the intersection although your ambulance driver's and passenger's view of northbound traffic was obstructed by vehicles in the left turn lane. We feel your employees did not drive with due care for the safety of others when entering an intersection on a red light involving vehicles traveling at highway speed when they could not clearly see whether traffic was approaching northbound.

As a result of this accident, our insured's truck was a total loss. The truck had an actual cash value of \$25,000. We are currently seeking salvage buyers.

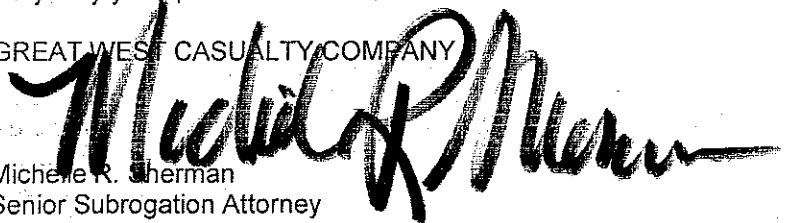
We have also opened up a workers' compensation claim for injuries received to our driver, Jeff Raitt, and today have paid medical and indemnity benefits of \$2,691.33. The workers' compensation claim is open due to the potential of future medical and/or indemnity payments.

Please consider this formal written notice of our subrogation claim against the city of Grand Island due to the negligence of your employee.

Please forward this on to your insurance company if the city has coverage that would apply to this accident.

Very truly yours,

GREAT WEST CASUALTY COMPANY


Michelle R. Sherman
Senior Subrogation Attorney
402-494-7876

DMSma22ds/jlp

WE CAN PROVIDE BETTER CUSTOMER SERVICE WHEN YOU REFER TO THE ABOVE FILE NUMBER