



City of Grand Island

Tuesday, April 14, 2009

Council Session

Item G1

**Receipt of Official Document - Tort Claim Filed by Motor Car
Engineering**

Staff Contact: Dale Shotkoski

Council Agenda Memo

From: Dale Shotkoski, City Attorney

Meeting: April 14, 2009

Subject: Receipt of Official Document – Tort Claim filed by Motor Car Engineering

Item #'s: G-1

Presenter(s): Dale Shotkoski, City Attorney

Background

The City of Grand Island has received a Notice of Tort Claim from Attorney Mark T. Porto on behalf of Motor Car Engineering, alleging certain claims in connection with an accident involving Jeffrey Warren a City of Grand Island employee which occurred on September 8, 2008.

Without getting into issues concerning the City's and other parties' liability, and whether the claim of Motor Car Engineering 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 Attorney Mark T. Porto on behalf of Motor Car Engineering.

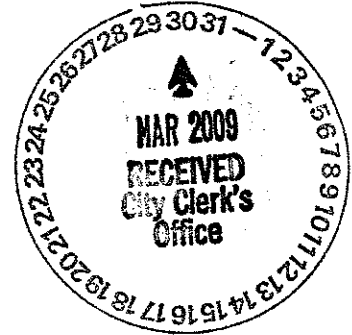
James I. Shamberg (Retired)
John A. Wolf
John B. McDermott
Ronald S. Depué
Mark T. Porto

SHAMBERG, WOLF,
McDERMOTT & DEPUÉ

Since 1885
ATTORNEYS AT LAW

308 North Locust Street, Suite 501
P.O. Box 460
Grand Island, NE 68802-0460
308/384-1635
Fax 308/384-1759

March 27, 2009



RaNae Edwards
Grand Island City Clerk
PO Box 1968
Grand Island, NE 68802

Dear Ms. Edwards:

Please let this letter serve as a formal demand under the Political Subdivisions Tort Claim Act, Neb. Rev. Stat. §13-905 for compensation in the amount of \$3,000.00 to Motor Car Engineering on account of negligence of a city employee acting during the scope of his employment on September 8, 2008.

Specifically, this demand concerns a motor vehicle accident between an employee of my client and Mr. Jeffrey Warren, an employee of the City of Grand Island, acting in the scope of his employment, on or about September 8, 2008, caused by negligence on the part of Mr. Warren.

Again, this letter is served upon you in accordance with Neb. Rev. Stat. §13-905.

Sincerely yours,

SHAMBERG, WOLF, McDERMOTT & DEPUE

A handwritten signature in cursive script, appearing to read "Mark T. Porto".

Mark T. Porto
Attorney for claimant, Motor Car
Engineering

MTP/gs

cc: Mayor
Admin.
Legal
Ut. Htes

3-30-09