



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: SC-1617-5

File ID: SC-1617-5 **Type:** Special Claim **Status:** Consent Item

Version: 1 **Reference:** Item 12 **In Control:** City Council

Department: Legal Department **Cost:** \$1,725.61 **File Created:** 03/03/2017

File Name: Special Claim from Brenda Burleson **Final Action:**

Title: SPECIAL CLAIM SC-1617-5: SUBMITTED BY BRENDA BURLESON IN THE AMOUNT OF \$1,725.61 FOR DAMAGES TO HER VEHICLE AS A RESULT OF AN OFFICER INVOLVED INCIDENT AT 1100 WEST MAIN STREET.

Notes: ACTION NEEDED: Motion to approve or reject Special Claim SC-1617-5; and, if approved, direct payment in the amount of \$1,725.61 contingent upon obtaining a Release and Covenant Not to Sue from Brenda Burleson.

ACTION TAKEN: _____

Agenda Date: 03/14/2017

Agenda Number: 12

Attachments: Tort Claim, Keith's Automotive Estimate, MuscleRodZ & Customz Estimate, Johnson's Automotive Estimate

Project Manager: Jeanne Snider, Assistant City Attorney

Entered by: sencinias@normanok.gov

Effective Date:

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:

Text of Legislative File SC-1617-5

Body

BACKGROUND: A claim was filed by Brenda Burleson for the cost of repairing damage to her vehicle that occurred on February 20, 2017. She was parked at 1100 West Main Street and while shopping indoors at Habitat for Humanity, her truck was shot by a Norman Police Officer.

DISCUSSION: This incident was investigated by Keith Humphrey, Chief of Police, and it has been determined that on February 20, 2017, at 1045 hours, an officer with the Norman Police Department was involved in an Officer Involved Shooting in the parking lot of Habitat for Humanity located on 1100 West Main Street.

The investigation determined Ms. Burleson's vehicle was damaged by the officer's bullet while she was inside the business and her unoccupied vehicle was parked at the same address. A bullet went through the passenger side front window, damaged a headrest, and damaged the back window. Brenda Burleson submitted three (3) preliminary estimates for repair and the lowest estimate she provided is for \$1,725.61.

From a legal perspective, the Governmental Tort Claims Act specifies that the City is only liable for the negligence of its employees while acting in the course of their employment with the City. 51 Okla. Stat. §151 et seq. The question here is whether the police officer's decision to fire his weapon at a fleeing suspect was negligent. The finding of negligence could be considered from the decision to even fire the weapon, or from the perspective of how the weapon was fired. Although the investigation into the matter by the police department indicates the officer acted appropriately, in accordance with his training, and consistent with the Norman Police Department policy manual, such conclusions could certainly be open for debate by a citizen who was not involved in the arrest or the chase, but suffered some damage to personal property due to the arrest efforts. Given the reasonableness of the claim and the claimant's status of an innocent bystander, these factors point toward mitigation of the damage through settlement of the claim.

RECOMMENDATION: Based upon the above and foregoing, it is the recommendation of the City Attorney's office that the claim of Brenda Burleson, in the amount of \$1,725.61 as set forth above, be approved.