



City of Norman, OK

Municipal Building Council
Chambers
201 West Gray
Norman, OK 73069

Master

File Number: GID-1314-63

File ID: GID-1314-63 **Type:** Settlement **Status:** ATS Paused

Version: 1 **Reference:** Item No. 13 **In Control:** City Council

Department: Legal Department **Cost:** **File Created:** 03/05/2014

File Name: Settlement in Alexander Denny Claim **Final Action:**

Title: CONSIDERATION OF A RECOMMENDATION FROM THE CITY ATTORNEY THAT THE CITY COUNCIL APPROVE A SETTLEMENT FROM ALEXANDER DENNY IN THE AMOUNT OF \$2,156.23 FOR PROPERTY DAMAGE ARISING FROM A VEHICLE ACCIDENT ON INTERSTATE 35 NEAR ROBINSON STREET TO BE DEPOSITED INTO THE RISK MANAGEMENT REIMBURSEMENT ACCOUNT.

Notes: ACTION NEEDED: Motion to approve or reject the City Attorney's recommendation; and if approved, accept payment in the amount of \$2,156.23 from Alexander Denny and increase Reimbursements-Refunds/Miscellaneous Risk Management (043-0000-367.12-64) by \$2,156.23.

ACTION TAKEN: _____

Agenda Date: 03/11/2014

Agenda Number: 13

Attachments:

Project Manager: Kristina Bell, Assistant City Attorney

Entered by: jayme.rowe@normanok.gov

Effective Date:

History of Legislative File

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

Text of Legislative File GID-1314-63

Body

BACKGROUND: On March 21, 2012, the City of Norman suffered property damage as a result of a vehicle accident that occurred on I-35 near the Robinson Street exit. Alexander Denny, the liable driver in this incident, collided with a truck which caused a second truck to overcorrect to avoid those vehicles. The second truck then slid into the center barrier wall damaging a roadway luminaire which was the property of the City of Norman and damaged beyond repair. The cost to the City of replacing the damaged roadway luminaire is \$8,125.09.

DISCUSSION: According to the accident report, Mr. Denny lost control of his vehicle as he entered I-35 from the Robinson Street southbound onramp. While his vehicle was out of control, he struck the first truck which was traveling southbound on I-35. The driver of the second truck steered his truck sharply to avoid that collision. This caused the driver of the second truck to overcorrect, lose control of his truck, and slide into the center concrete barrier. The second truck burst into flames at that point of contact. The driver of the second truck died as a result of this accident. Additionally, the truck and the load he was transporting were entirely

destroyed as a result of the fire. The driver of the first truck sustained injuries; that truck was damaged, and the load that driver was transporting was also destroyed.

Three property damage claims were submitted to Mr. Denny's insurance; the City's claim for the luminaire in the amount of \$8,125.09, the first truck and the load in the trailer in the amount of \$80,479.11, and the second truck and the load in that trailer in the amount of \$5,600.44. The three property damage claims totaled \$94,204.64.

In September, 2013, the City was advised that Mr. Denny had the minimum coverage policy allowed by the State of Oklahoma which allows a total of \$25,000 to be paid for property damage. In February, 2014, the third property damage claim was finalized and submitted to Progressive Insurance Company. At that time, Progressive determined the pro rata share of each property damage claim. The City's share was 8.6% of the policy limits or a total of \$2,156.23 toward the City's total claim of \$8,125.09.

After researching any assets Mr. Denny may have to supplement the insurance proceeds, it appears that he does not possess any additional assets from which to satisfy the remainder of the claim. In light of his economic position and the fact that there are greater property damage and personal injury claims arising from this accident, it appears likely that pursuing the balance of the City's property damage claim against Mr. Denny would be futile. Upon confirmation of the absence of additional assets, it appears that the settlement offered by Mr. Denny's insurance company in the amount of \$2,156.23 is reasonable. The proposed settlement was discussed by Council in Executive Session on March 4, 2014.

RECOMMENDATION: It is believed the proposed settlement is fair, reasonable, and in the best interest of the City. Based upon the above and Council's input from the Executive Session, it is recommended by the City Attorney's Office that the settlement of the City of Norman's property damage claim arising from a vehicle accident caused by Alexander Denny on March 21, 2012, in the amount of \$2,156.23, as set forth above, be accepted and approved by City Council. Should Council approve the settlement amount, then upon receipt of the \$2,156.23 check, it will be deposited into Risk Management Account #043-0000-367.12-64.