



CITY COUNCIL STAFF REPORT

MEETING DATE: September 23, 2024
ITEM TITLE: Deny Claim of Eric Shapiro.

RECOMMENDATION:

Staff recommends that the City Council deny the claim of Eric Shapiro as recommended by the Sedgwick representative.

FISCAL IMPLICATIONS:

None for this action.

BACKGROUND:

This item is coming before the Council to act on the claim submitted by Eric Shapiro ("Claimant"). Staff recommends that the City Council deny the claim based on Sedgwick's guidance.

The Tort Claims Act. California Government Code Sections 900, seq., mandates that all claims for money or damages against a public entity must be presented in writing to the public entity prior to filing suit. Generally, claims concerning personal injury, wrongful death, damage to personal property, or damage to crops must be presented to the public within six (6) months of the accrual of the claim. All other claims, principally claims on contracts and damage to real property, are subject to a one-year statute of limitations for presentation of the tort claim. Once a tort claim is received by the public entity, the entity has forty-five (45) days to act on the claim. A claim can be settled or rejected. If no action is taken within 45 days, the claim is deemed rejected by operation of law on the last day.

Claims Processing in San Carlos. When the City receives a claim, the claim is immediately forwarded to claims examiners at Sedgwick for investigation. After Sedgwick investigates the claim, Sedgwick provides a recommendation to the City on the handling of the claim.

About Sedgwick. Sedgwick is a leading global provider of technology-enabled risk, benefits and integrated business solutions. In July 2019, Sedgwick acquired York Risk Services Group ("York"). York was originally hired through the Pooled Liability Assurance Network Joint Powers Authority ("PLAN JPA"), and Sedgwick will continue claims administration services to provide claims administration services to the City. The City Council approved the City's participation in the PLAN JPA (previously known as the Association of Bay Area Government Pooled Liability Assurance Network or "ABAG PLAN") on November 27, 2017 and designated the Administrative Services Director and Senior Management Analyst as primary and alternate PLAN JPA Board members.

ANALYSIS:

The Dordulian Law Group has filed a claim against the City for bodily injury on behalf of Claimant. Claimant alleges, that while he was walking on the sidewalk fronting 244 El Camino Real on April 1, 2024, he stepped onto a manhole cover, fell through the manhole, and sustained bodily injuries as a result. Claimant is seeking \$70,000 from the City.

Although the manhole cover at the stated location belongs to the City of San Carlos, staff did not move the manhole cover nor was the City aware of the condition of the manhole at the loss location. When staff visited the loss location, the manhole cover was secured and evidenced no signs of movement. Government Code Section 835 provides immunities when there was no known prior notice to the City of a "hazardous condition". Therefore, the City does not have any liability. For that reason, Sedgwick recommends formal rejection of this claim.

The Council's rejection of this claim does not prevent City staff or the staff of Sedgwick from continuing to work with Claimant to resolve the dispute.

ALTERNATIVES:

The alternatives available to the City Council include:

1. Deny claim of Eric Shapiro; or
2. Do not deny claim of Eric Shapiro; or
3. Provide staff with alternative direction.

Respectfully submitted by:

Rebecca Mendenhall, Administrative Services Director

Approved for submission by:



Jeff Maltbie, City Manager

ATTACHMENT(S):

1. Shapiro, E. Amended Claim