

CITY OF ELKHORN
Finance & Judicial Committee Minutes
Council Chambers, 9 S. Broad Street, Elkhorn, Wisconsin

October 27, 2014

The Finance and Judicial Committee was called to order at 5:03 p.m. by Alderman D'Alessandro, followed by roll call.

ROLL CALL

Present: Aldermen Jim D'Alessandro, Tom Myrin

Also present: City Administrator Sam Tapson, Finance Director James Heilman, City Clerk Cairie Virrueta, Finance Director James Heilman, City Attorney Ward Phillips, Resident Taylor Eastbrook

TAYLOR EASTBROOK APPEAL OF LIABILITY CLAIM DENIAL

Alderman D'Alessandro asked procedural questions regarding dealing with the claim denial appeal. He asked how many appeals the City has had regarding claims. City Attorney Philips and City Administrator Tapson said none. Administrator Tapson said this is a Committee matter as the claim is under \$5,000. Alderman D'Alessandro asked if Eastbrook is not happy with the committee's decision, can she appeal it? Attorney Philips said she can through the legal system. Taylor Eastbrook gave paperwork to the Alderman. She said that Second Street has been in poor condition for a long time and her and her neighbors have reported the conditions to the City as far back as a year ago. On June 23, 2014 at approximately 10:00 p.m., Eastbrook was walking her dog on Second Street and fell when her foot got stuck in a rut. Her fall broke off a tooth that was a baby tooth. She was filing a claim with the City for the replacement of her tooth. She said she has dental insurance and wants the City to pay what the insurance doesn't. She needs to have work done by an oral surgeon but didn't have the fees for that work. She said the missing tooth is impeding her ability to do a job search. Attorney Philips said this is a slip and fall issue involving comparative negligence. Eastbrook is at fault because this is a look-out issue. He felt the City wasn't liable and that if the street was in a poor condition for a long time, then everyone has the time to be aware of the hazards to be able to look-out for them. Administrator Tapson was concerned with the time lag involved with the reporting of the street conditions and the repairs. Alderman Myrin asked Eastbrook why she would walk on the street when she knew of the conditions. Eastbrook said she was walking there because that side of the street doesn't have a sidewalk. Administrator Tapson told Eastbrook the City doesn't pay cash out and the City needed to know what the amount would be after the insurance paid their portion. Alderman D'Alessandro said that the City could be billed by the insurance if found liable for the claim. Eastbrook has not made any claims to her dental insurance company. Eastbrook asked what she should do. Administrator Tapson said to submit the claim to her insurance company and then tell the City what the amount is, but that this is about if the City is liable for the claim or not, not the amount of the claim. Eastbrook will get the amounts and forward the information to City Clerk Virrueta. Finance Director asked Eastbrook if she submitted this to her health insurance. Eastbrook said she did not have health insurance. Alderman D'Alessandro was concerned that anyone who fell down on a street could go to the City to make claim. **Motion (D'Alessandro/Myrin) to table until after Eastbrook provides additional information. Motion carried.**

CLOSED SESSION: Market Street Right-of-Way Acquisition

Committee adjourned at 5:40 p.m. into Closed Session per roll call vote per SS 19.85(1)(e) for "Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session." Roll Call Vote, Present: James D'Alessandro, Tom Myrin.

ADJOURNMENT

Motion (Myrin/D'Alessandro) to adjourn at 5:53 p.m. Motion carried.

Cairie L. Virrueta
City Clerk