CITY OF WAUKESHA
Administration
201 Delafield Street, Waukesha, WI 53188
Tel: 262.524.3701 fax: 262.524.3899
www.ci.waukesha.wi.us

Committee: None	**Committee Meeting Date**: Click here to enter a date.
Agenda Item Number: 18-0967	**Common Council Meeting Date:** 6/19/2018
Submitted By: Brian Running, City Attorney	**City Administrator Approval:** Kevin Lahner, City Administrator Click here to enter text.
Finance Department Review: Rich Abbott, Finance Director Click here to enter text.	**City Attorney's Office Review:** Brian Running, City Attorney BER
Subject: Claim for personal injury damages submitted by Thomas Nance.	

Details:
Thomas Nance served a notice of claim on the city on June 14. He claims $10,000 in damages as a result of a slip and fall on a city street. Mr. Nance is a postal service employee, and he slipped and fell on Post Office Circle, adjacent to the post office building and the YMCA. His notice of claim accompanies this cover sheet.
The photos accompanying the claim show an area near a YMCA dumpster enclosure where there is an accumulation of sand and gravel on the street and driveway apron. It is apparently the result of snowbanks from the snowstorms earlier that month, which melted and left the sand and gravel deposits behind.
Mr. Nance states that he received a puncture wound on his hand, which was treated by ProHealth Care. Workers comp insurance covered the medical expenses. Mr. Nance claims damages for "loss of use, loss of enjoyment, and pain and suffering."

Options & Alternatives:
There are three options for the Council to consider: Pay the claim, disallow the claim, or take no action. Paying the claim would require payment from city funds, because our liability insurer denies coverage. By disallowing the claim, the time period in which Mr. Nance may file suit against the city is shortened to 6 months from the date of disallowance. By doing nothing, Mr. Nance would have six years from the date of the incident to file suit. Payment of the claim is not recommended for several reasons: It would result in no insurance coverage and require payment from city funds, it is not clear that the city is at fault in any way, it is clear that the claimant is at least partially at fault, and the city is provided immunity by state statute from such claims. Taking no action is not recommended because we have the opportunity to shorten the period in which a suit may be filed, and that helps the city to reduce and manage its contingent liabilities.

Financial Remarks:
If the Council were to agree to pay the claim, it would result in a payment of up to $10,000. This would have to come from the city's contingency fund.

Staff Recommendation:
City Attorney's office recommends disallowance of the claim.

City of Waukesha

OFFICE OF THE CLERK-TREASURER
201 DELAFIELD STREET
WAUKESHA, WISCONSIN 53188-3692
TELEPHONE CLERK - 262/524-3550
TELEPHONE TREASURER - 262/524-3850
FAX 262/524-3888

Gina Kozlik, Clerk-Treasurer
gkozlik@ci.waukesha.wi.us

June 14, 2018

TO: Community Insurance / AEGIS Corporation

RE: Accident or Claim of: Thomas Nance
313 West Vienna Avenue
Milwaukee, WI 53212
414/418-3502
tnanceable@yahoo.com

Date of Accident or Claim: April 25, 2018

Date City Served: June 14, 2018

The enclosed is being sent to you for your information and consideration. Please direct any further inquiries to Keith Yahn at (262) 524-3552.

Sincerely,

Gina Kozlik
City Clerk/Treasurer

Cc: Clerk (original) / Finance / Attorney / Engineering

June 6, 2018

Mr. Thomas Nance
313 West Vienna Avenue
Milwaukee, Wisconsin 53212
tnanceable@yahoo.com
414-418-3502

Clerk Treasurer, City of Waukesha
ATTN: CLAIMS
201 Delafield Street. Room 104
Waukesha, Wisconsin 53188

To whom it may concern:

On April 25, 2018 at approximately 9 a.m. I slipped, tripped, and fell while crossing the street at the Northeast end of Post Office Circle, a cul de sac, causing a deep tear and puncture wound to the palm of my right hand. This wound ultimately required emergency room treatment and four sutures to close. This slip and fall accident occurred because this section of this city street is in a severe state of disrepair. There is uneven pavement, broken pavement, debris, rocks and gravel strewn all about. The very bad and dangerous condition of this city owned and operated street has been reported in the past.

This injury caused me an extreme amount of pain as well as some embarrassment. I was treated at Waukesha Memorial Hospital emergency room and released. I had to be placed on restricted work duty for a period of approximately three weeks as I had a brace on my hand.

I had plans to celebrate my 20th wedding anniversary with an Alaskan cruise, which me and my wife had been planning for over a year. The cruise sail date was May 19, 2018. I did take the cruise. However, I experienced recurring pain, numbness and tingling for the duration of my trip and I was on pain medication the whole time.

While significant healing has taken place, there is still pain, numbness and tingling. I am still taking pain medication. There is also a loss of grip strength and the possibility of long-term and/or permanent nerve damage.

I am submitting this claim, in the amount of $10,000 for loss of use, loss of enjoyment and pain and suffering. There is no claim being made for medical cost. Please find attached a copy of the emergency room paperwork, and photographs of accident scene.

I appreciate your prompt attention to this matter.

Sincerely

Thomas Nance

Mr. Thomas Nance

PROHEALTH CARE
PO BOX 3166
MILWAUKEE,WI-53201-3166
Ph:(866)432-7855

Guarantor ID:
400031657

Account ID:
7113491

Guarantor Name & Address:
Thomas W Nance
313 W VIENNA AVE

MILWAUKEE, WI 53212

Detailed Bill For:

Patient Name: Nance,Thomas W
Account Class: Emergency
Location: PROHEALTH WAUKESHA MEMORIAL HOSPITAL, INC.

Admit Date: 04/25/18
Discharge Date: 04/25/18

Hospital Charges

Date	Rev Code	Procedure Code	Description	Qty	Amount
04/25/18	0320	32073130	HC HAND 2 VIEWS	1	330.49
04/25/18	0320	32073110	HC WRIST MIN 3 VIEWS	1	330.49
04/25/18	0271	27110210	HC SPLINT- THUMB:SPICA	1	250.35
04/25/18	0250	25000003	BUPIVACAINE (PF) 0.25 % (2.5 MG/ML) SOLN	1	136.23
04/25/18	0636	90715	TETANUS-DIPHTHERIA-ACELLULAR PERTUSSIS (PF) (ADULT/ADOLESCENT) 2 LF-(2.5-5-3-5 MCG)-5LF/0.5 ML SYRG	1	229.13
04/25/18	0272	27210147	HC SUTURE	1	14.01
04/25/18	0771	77190471	HC IMMUNIZATION ADMIN:ONE VACCINE	1	97.93
04/25/18	0450	45012001	HC LACERATION SIMPLE-UP TO 2.5CM	1	311.44
04/25/18	0450	45099283	HC EMERGENCY DEPARTMENT LEVEL 3	1	756.33
			Total Charges		**2,456.40**

Total Balance: 2,456.40

U.S. Department of Labor
Office of Workers' Compensation Programs

Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation

COPY

Employee: Please complete all boxes 1 - 15 below. Do not complete shaded areas.
Witness: Complete bottom section 16.
Employing Agency (Supervisor or Compensation Specialist): Complete shaded boxes a, b, and c.

Employee Data

1. Name of employee (Last, First, Middle): NANCE, THOMAS WAYNE
2. Social Security Number: [redacted]
3. Date of birth (Mo. Day Yr.): 01/24/1961
4. Sex: [x] Male [ ] Female
5. Home telephone: [redacted]
6. Grade as of date of injury: Level 04 Step
7. Employee's home mailing address (include street address, city, state, and ZIP code): 313 W. VIENNA Ave
   City: Milwaukee, WI ZIP Code: 53212
8. Dependents: [x] Wife, Husband [ ] Children under 18 years [ ] Other

Description of Injury

9. Place where injury occurred (e.g. 2nd floor, Main Post Office Bldg., 12th & Pine): Post office Circle, waukesha WI sidewalk
10. Date injury occurred (Mo. Day Yr.): 04/25/2018 Time: [x] a.m. 9:30 [ ] p.m.
11. Date of this notice (Mo. Day Yr.): 04/25/2018
12. Employee's occupation: USPS Custodian
13. Cause of injury (Describe what happened and why): Slip and fall on loose gravel puncturing right hand palm landed on sharp rock
14. Nature of injury (identify both the injury and the part of the body, e.g., fracture of left leg): Cut/puncture right-hand

POSTAL EMPLOYEE HEALTH MANAGEMENT
APR 27 2018
PO BOX 5024 53201-5024

a. Occupation code
b. Type code | c. Source code
OWCP Use - NOI Code

Employee Signature

15. I certify, under penalty of law, that the injury described above was sustained in performance of duty as an employee of the United States Government and that it was not caused by my willful misconduct, intent to injure myself or another person, nor by my intoxication. I hereby claim medical treatment, if needed, and the following, as checked below, while disabled for work:

[x] a. Continuation of regular pay (COP) not to exceed 45 days and compensation for wage loss if disability for work continues beyond 45 days. If my claim is denied, I understand that the continuation of my regular pay shall be charged to sick or annual leave, or be deemed an overpayment within the meaning of 5 USC 5584.

[ ] b. Sick and/or Annual Leave

I hereby authorize any physician or hospital (or any other person, institution, corporation, or government agency) to furnish any desired information to the U.S. Department of Labor, Office of Worker's Compensation Program (or to its official representative). This authorization also permits any official representative of the Office to examine and to copy any records concerning me.

Signature of employee or person acting on his/her behalf: Thomas Nance Date: 04/25/18

Any person who knowingly makes any false statement, misrepresentation, concealment of fact or any other act of fraud to obtain compensation as provided by the FECA or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both.

Have your supervisor complete this receipt attached to this form and return it to you for your records.

Witness Statement

16. Statement of witness (Describe what you saw, heard, or know about this injury)

Name of witness | Signature of witness | Date signed

Address | City | ZIP Code