



Item No. 10 Town of Atherton

CITY COUNCIL STAFF REPORT – CONSENT AGENDA

TO: HONORABLE MAYOR AND CITY COUNCIL

THROUGH: GEORGE RODERICKS, CITY MANAGER

FROM: THERESA DELLASANTA, DEPUTY CITY MANAGER

DATE: JUNE 20, 2018

SUBJECT: RESOLUTION TO REJECT CLAIM OF FARMERS INSURANCE REGARDING THEIR INSURED LUIS FRIAS

RECOMMENDATION

Adopt Resolution 18-xx denying the claim filed by Farmers Insurance Company regarding their insured Luis Frias.

BACKGROUND

Louis Frias submitted a claim on behalf of his daughter Cheyenne Frias on February 23, 2018 claiming that an Atherton Police Officer caused Cheyenne Frias to rear-end a vehicle during the officer's flag-down of another vehicle. The Officer had noted a vehicle traveling at an unsafe speed and therefore conducted a "flag-down" traffic stop, leading to vehicles behind the offender needing to slow down. Two of the trailing vehicles end up colliding, with a vehicle owned by claimant Louis Frias rear-ending a driver in front of him, a driver not identified in claimant's claim. The Officer confirmed none of the involved drivers to be injured, and the involved parties chose to exchange information at the scene.

Staff recommended that Council reject the claim because it appeared claimant's daughter, driver Cheyenne Frias', own negligent driving led to her not being able to stop in time to keep from hitting a car stopped in front of her which had been flagged down to a slow-stop by the Atherton Officer. Had the claimant driver allowed sufficient stopping distance based on speed of travel, as required under the Vehicle Code, she should have been able to stop in enough time to keep from impacting a second vehicle.

City Council rejected the claim on March 21, 2018. Following rejection, Farmers insurance sent a subrogation demand claiming that their investigation established that the loss was caused by the Town. Based on the Town's review, the loss facts have not changed since the Frias' first presented their claim; and in that claim, the Town sent the claimants a Notice of Rejection.

ABAG, the Town's insurer, recommends that Farmers Insurance be sent a Notice of Rejection.

FISCAL IMPACT

None.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the item is also disseminated via the Town’s electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town’s electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service provides (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item ___ has or X has not been before a Town Committee or Commission.

- Audit/Finance Committee (meets every other month)
- Bicycle/Pedestrian Committee (meets as needed)
- Civic Center Advisory Committee (meets as needed)
- Environmental Programs Committee (meets every other month)
- Park and Recreation Committee (meets each month)
- Planning Commission (meets each month)
- Rail Committee (meets every other month)
- Transportation Committee (meets every other month)

ATTACHMENT

- Resolution

RESOLUTION 18-xx

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
REJECTING THE CLAIM OF FARMERS INSURANCE REGARDING THEIR
INSURED LUIS FRIAS**

(Date of Occurrence: February 20, 2018)

**BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ATHERTON,
CALIFORNIA, AS FOLLOWS:**

That the claim of Farmers Insurance for damages regarding their insured Luis Frias, which was filed with the City Clerk on April 10, 2018 is hereby rejected.

DULY AND REGULARLY ADOPTED this 20th day of June, 2018.

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

Cary Wiest, Mayor
Town of Atherton

ATTEST:

Theresa N. DellaSanta, City Clerk

APPROVED AS TO FORM:

William B. Conners, City Attorney