




OFFICE OF THE CITY ATTORNEY

CLAIMS MEMORANDUM #DC-2024-070

TO: Mayor and Council

FROM: Garrett Lam
Assistant City Attorney 

DATE: January 21, 2025

MEETING: January 28, 2024

RE: Damage claim of
The Claims Center
OBO American Electric Power
P.O. Box 270410
Minneapolis, MN 55427

Submitted in the amount of \$321.16 on December 12, 2024

RECOMMENDATION: Denial

BASIS OF CLAIM: On December 12, 2024, The Claims Center filed a claim on behalf of American Electric Power (AEP) alleging damage to a utility pole at 6460 NW Columbia Ave, Lawton, Oklahoma, that occurred on August 20, 2024. They are requesting \$312.16 for the repair to the damaged service line.

DATE OF DAMAGE: August 20, 2024

FACTS: The Claims Center filing only included the address of alleged damage and an invoice for parts and labor. When the City's Claim Investigator reached out to the Claims Center for more information, they only provided the name and phone number for AEP's repair tech, Justin Cox. The Claims Center never produced any other documentation of the damage, even when prompted via e-mail and telephone conversations. Our office contacted Mr. Cox who stated the damage occurred at the park across the street from the home at 6460 NW Columbia. He further alleges that a "City" crew damaged the utility pole so badly that it caught fire, burning the "SL" wires that power the streetlight that illuminates the park. He stated he was able to salvage the utility pole, but the wiring had to be replaced, prompting the claim from The Claims Center on behalf of AEP.

The Parks and Grounds Superintendent, Antonio Hopson, confirmed the Parks and Recreation crew was present in the Eve McNally Memorial Park on August 20, 2024, working on removing the old playground equipment. Mr. Hopson denied any knowledge of the incident before the Claims Investigator reached out to him about AEP's claim. Mr. Hopson also spoke with the supervisor of the Parks crew renovating the park who also denied the incident as claimed by AEP. The Claims Investigator could not find any calls for service in the area surrounding the park on the day the utility pole allegedly caught fire. Further, the utility pole in question was visually inspected by the Claims Investigator who could find no evidence that a fire had occurred. The utility pole was generally in good condition with no scorch marks or any other indication a fire had occurred.

LEGAL BASIS FOR DENIAL OF CLAIM: Negligence is defined as the failure to exercise ordinary care to avoid injury to another's person or property. Pursuant to Title 51 O.S. §151 *et seq.*, municipalities are held accountable in the same manner as private entities or individuals for negligent acts or omissions that result in harm to others. Negligence is never presumed, and *the burden of proving negligence and that it was the proximate cause of the harm complained of, is on the complaining party.* Oklahoma Ry. Co. v. Ivery, 204 P.2d 978 (Okla. 1949).

This office recommends denial of this claim.

Accordingly,

1. The Claims Center never produced any evidence to support their claim.
2. The investigation conducted by the City's Claims Investigator could also find no evidence of the incident alleged by AEP.
3. No negligence could be found on the part of the City of Lawton.

GARRETT LAM
ASSISTANT CITY ATTORNEY


Mincie Beamesderfer, CP
Claims Investigator