

## RBS Pays \$300,000 in Police Negligence Lawsuit

Tuesday, December 16, 2008

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The city of Red Boiling Springs reached a settlement agreement of \$300,000 last week in a lawsuit filed against the city in April of 2008.

The lawsuit, filed by Heather Tuck and David Alan McCarter, accuses the Red Boiling Springs Police Department and RBS Police Chief Terry Tuck of “negligence and recklessness” regarding an incident that took place between Heather and her former husband Tommy Tuck on July 14, 2007.

Tommy Tuck, who is the brother of RBS Chief Terry Tuck, is currently serving time for two counts of attempted murder in the brutal attack of his ex-wife Heather and co-plaintiff David McCarter, at which time he broke into Heather’s home and stabbed both victims multiple times.

The Statement of Facts listed in the lawsuit, regarding the negligence and recklessness charges, are as follows:

\* In 1989, Tommy Tuck stabbed his first wife with a butcher knife, and was imprisoned for that offense.

\* Police Chief Terry Tuck was aware that his brother had been previously imprisoned for attacking a woman with a knife.

\* In May of 2007, Tommy Tuck committed egregious acts of intimidation, false imprisonment and assault against Heather Tuck . . . Tommy Tuck’s conduct caused Heather to apply for an Order of Protection on June 25, 2007. The Order was served upon Tommy Tuck two days later.

\* On the schedule day of the Order of Protection Hearing Tommy Tuck broke into Heather Tuck's home, harassing Heather and intimidating her in a threatening manner, all in clear violation of the Order.

\* On the morning of July 13, Heather called Police Chief Terry Tuck and spoke with him by phone, telling him that Tommy had violated the Order.

\* While in route to the Order of Protection Hearing, Heather phoned Chief Terry Tuck to inform him of Tommy's whereabouts, specifically requesting that Terry "come get" his brother, which Police Chief Terry Tuck declined to do.

\* In the early hours of the following morning, Tommy Tuck broke into Heather's home, viciously attacking Heather and David McCarter; slitting Heather's throat and stabbing and slashing each victim multiple times.

The Cause of Action reads as follows: 'Police Chief Terry Tuck, in the course and scope of his employment, knew of Tommy Tuck's violation of the Order of Protection but committed the negligent omission of failing to arrest Tommy Tuck, despite having ample notice, opportunity and legal duty to do so . . . as a direct result the plaintiffs suffered sever bodily injury, extreme pain and suffering, continual emotional and mental distress, permanent disfigurement and loss of enjoyment of life. In addition, the plaintiffs suffered lost earnings and incurred medical expenses as a result of their injuries.'

The mediator in the lawsuit made the recommendation for the recent settlement and while the city's insurance company will be paying the settlement fees, there is no word yet as to how much the city's premiums will increase.

Following the decision to settle, the Red Boiling Springs City Council met in regular session on Thursday, Dec. 11, voting unanimously to end all discussions on the lawsuit.

While council members were not presented with any documentation on the case itself, Chief Tuck did speak to the council on his and the RBS Police Department's behalf.

The discussion leading up the council's decision not to take any further action or complete an

investigation into the case was not available, as the videotape, which was operated by a member of the RBS Police Department, was released to the media without any sound to accompany the video. (The media was not present during the meeting due to icy road conditions)

In other business, the RBS City Council:

- Adopted Ordinance #08-9, amending Section 202, "Holidays," of the Municipal Code on second and final reading. The ordinance adds Christmas Eve and the day after Thanksgiving to the list of paid holidays for city employees.
- Adopted Ordinance #08-10, increasing Jackson County's water rates (4.22 percent) on first reading.
- Adopted Ordinance #08-11, amending the 2008-2009 budget on first reading.
- Adopted Ordinance #08-12, increasing outside industrial and commercial water rates on first reading.
- Voted to give all city employees a \$100 holiday bonus and to provide a turkey for the RBS Fire Department.
- Voted to appoint Terry Newberry to fill the remainder of Tommy Spivey's term on the council.
- Heard from CPA, John Poole regarding the city's accounting. Poole stated that all of the city's accounting is done per state laws.
- Is looking into purchasing three flags to display in RBS and purchasing more Christmas

decorations to display at all sides of the city limits.

The council also decided to put flags up on Veterans Day.

- Discussed asking the city engineer to look into getting water from the Cumberland River.
- Discussed E-mails regarding city business. City E-mails are not to be sent and/or received on personal E-mail accounts.