



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORANDUM

COMMITTEE: Finance and Personnel

LEGISLATION ITEM #: 0845-23

AGENDA DATE: August 28, 2023

DEPARTMENT: City Attorney's Office

Prepared By: Deputy City Attorney Marisa Roubik

SUBJECT: Communication sponsored by Alder West on behalf of the City Attorney's Office submitting the claim of Winetta Kolen for consideration for disallowance.

EXECUTIVE SUMMARY:

Winetta Kolen filed a claim with the City requesting an unspecified amount for damages allegedly arising from her vehicle getting yellow paint on it while she was driving on Douglas Avenue on or about June 15, 2023. The claimant alleges that the City was painting a yellow strip on an unspecified portion of Douglas Avenue on the date in question. The city denies liability due to defects in the claim as filed. Furthermore, the claimant was negligent for failing to maintain a proper lookout for potential hazards in plain sight within the roadway.

For these reasons, it is the recommendation of the City Attorney's Office that this claim be disallowed.

BACKGROUND & ANALYSIS:

Winetta Kolen, of 3720 Douglas Avenue, Racine, Wisconsin, claims reimbursement an unspecified amount for damages allegedly arising from her vehicle getting yellow paint on it while she was driving on Douglas Avenue on or about June 15, 2023. The claimant alleges that the City was painting a yellow strip on an unspecified portion of Douglas Avenue on the date in question. The city denies liability due to defects in the claim as filed. Furthermore, the claimant was negligent for failing to maintain a proper lookout for potential hazards in plain sight within the roadway.

30 The claim that the claimant filed with the City on or about July 11, 2023 did not include an itemized
31 statement of the relief sought, as required by law. As such, the claimant did not satisfy the statutory
32 requirements for filing a claim in accordance with Wis. Stat. § 893.80(1d), and she does not have a right to
33 maintain an action against the City.

34 Furthermore, all drivers have a duty to look out for potential roadway hazards in plain sight, such
35 as fresh paint being applied to a street median. If a driver fails to keep a proper lookout for such potential
36 hazards in their plain sight, the driver is negligent.

37 For the above stated reasons, it is the recommendation of the City Attorney's Office that this claim
38 be disallowed.

39 _____

40 **BUDGETARY IMPACT:**

41 Assuming the recommendation to disallow this claim is adopted, this item would have a \$0.00
42 impact on the City's budget.

43 _____

44 **RECOMMENDED ACTION:**

45 That the disallowance of this claim be recommended for approval.