



1 **City of Racine, Wisconsin**
2 **Common Council**

3 **AGENDA BRIEFING MEMORADUM**

4 **COMMITTEE:** Finance and Personnel

LEGISLATION ITEM #: 1076-18

5 **AGENDA DATE:** October 22, 2018

7 **DEPARTMENT:** City Attorney's Office

8 **Prepared By:** Assistant City Attorney Marisa Roubik

10 **SUBJECT:** Claim of Christine Kiernan, City Attorney File No. 2018-0237

12 **EXECUTIVE SUMMARY:**

13 Christine Kiernan filed a claim with the city requesting \$3,685.23 worth of damages to her vehicle
14 and an unspecified amount of medical expenses as a result of her running over large hole/obstruction
15 resulting from Wisconsin Department of Transportation ("Wis DOT") road construction at the intersection
16 of High Street and Douglas Avenue on or about July 8, 2018, which the City was not party to. The City is
17 not liable for alleged damages that result from construction projects that the City is not party to.

18 For this reason, it is the recommendation of the City Attorney's Office that the Finance and
19 Personnel Committee recommend that the Common Council deny this claim.

21 **BACKGROUND & ANALYSIS:**

22 Christine Kiernan, of 1527 Buchanan Avenue in Racine, Wisconsin, filed a claim for
23 reimbursement in the amount of \$3,685.23 for vehicle damage and an unspecified amount of medical
24 expenses allegedly arising after she struck a large hole/obstruction in the intersection of High Street and
25 Douglas Avenue on or about July 8, 2018. Ms. Kiernan claims that this alleged hazard was not properly
26 marked and the road was in a dangerous condition. On the date in question, this intersection was undergoing
27 construction as part of a Wis DOT project, in which the City was not involved. After reviewing the
28 circumstances of this claim, the City Attorney's Office contends that the City is not liable for this damage.

29 The City is not liable for alleged damages that result from construction projects that the City is not
30 party to.

31 Wis DOT had contracted with LaLonde Contractors to perform a construction project at the
32 intersection of High Street and Douglas Avenue on or about the date in question. The City did not have
33 any concurrent road construction projects located at this intersection on the date in question. As such, the
34 alleged hazard that Ms. Kiernan struck was not created by the City.

35 The City Attorney's Office recommends that this Committee deny the claim of Christine Kiernan
36 because the construction hazard at issue was part of a Wis DOT construction project, and the City is not
37 liable for alleged damages that result from construction projects that the City is not party to.

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39 **BUDGETARY IMPACT:**

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

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43 **OPTIONS/ALTERNATIVES:**

44 If the Committee recommends that this claim be paid by the City (contrary to any indication of
45 the City's liability for the alleged damages), this item would have up to a \$3,685.23 impact on the City's
46 2018 claims budget.

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48 **RECOMMENDED ACTION:**

49 The City Attorney's Office respectfully advises this Committee to recommend that the Common
50 Council deny the claim of Christine Kiernan.

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52 **ATTACHMENT(S):**

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