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**City of Racine, Wisconsin  
Common Council**

**AGENDA BRIEFING MEMORANDUM**

**COMMITTEE:** Finance and Personnel

**LEGISLATION ITEM #:** 1212-19

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**AGENDA DATE:** November 11, 2019

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**DEPARTMENT:** City Attorney's Office

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

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**SUBJECT:** Communication sponsored by Alder Shakoor II on behalf of the City Attorney's Office submitting the claim of Robert Eppler for consideration for disallowance.

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**EXECUTIVE SUMMARY:**

Robert Eppler filed a claim with the City requesting \$2,217.36 in damages to her vehicle after a traffic sign pole allegedly fell on his car, which was parked at 2707 Carpenter Avenue on or about July 13, 2019. Here, there was no prior notice of a defect in the traffic sign pole. As such, the City did not have a ministerial duty to service this pole, and the City is immune from liability. For this reason, it is the recommendation of the City Attorney's Office that this claim be disallowed.

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**BACKGROUND & ANALYSIS:**

Robert Eppler, of 3245 Hamlin Street, Racine, WI 53403, filed a claim for reimbursement for \$2,217.36 in damages to his vehicle after a traffic sign pole allegedly fell on his car, which was parked on the street in front of 2707 Carpenter Avenue on or about July 13, 2019.

The City is immune from liability for Mr. Eppler's alleged damages pursuant to Wis. Stat. § 893.80. In short, state law confers broad immunity from suits on municipalities for acts that are considered "discretionary" in nature. With regards to traffic sign poles, the task of deciding which poles need inspection, maintenance, or removal and when such actions should be taken are all discretionary acts requiring judgment on the part of the Department of Public Works. Given the discretionary nature of these acts, the City cannot be held liable for failing to maintain a traffic sign pole.

30 In some cases, the City could be held liable if it was given notice of a defect and its failure to remedy such  
31 defect was unreasonable. Here, there is no evidence that the City knew of the defect in the traffic sign pole  
32 prior to July 13, 2019. Since the City did not have prior notice of any defect in the pole, the City did not  
33 have a ministerial duty to service this pole.

34 For the reasons set forth above, the City is immune from liability and the claim should be disallowed.

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36 **BUDGETARY IMPACT:**

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

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40 **OPTIONS/ALTERNATIVES:**

41 If the Committee recommends that this claim be paid by the City (contrary to any indication of the City's  
42 liability for the alleged damages), this item would have up to a \$2,217.36 impact on the City's 2019 claims  
43 budget.

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45 **RECOMMENDED ACTION:**

46 The City Attorney's Office respectfully advises this Committee to recommend that the Common Council  
47 disallow the claim of Robert Eppler.

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49 **ATTACHMENT(S):**