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**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORANDUM

COMMITTEE: Finance and Personnel

LEGISLATION ITEM #: 0683-20

AGENDA DATE: October 12, 2020

DEPARTMENT: City Attorney's Office

Prepared By: Deputy City Attorney Jennifer Williams

SUBJECT: Communication sponsored by Alder Taft on behalf of the City Attorney's Office submitting the claim of Denis Navratil for consideration for disallowance.

EXECUTIVE SUMMARY:

Denis Navratil filed a claim with the city requesting \$50,000.00 in damages for statements made by City of Racine Mayor Cory Mason alleged to qualify as defamation. For the reasons outlined in a separate confidential legal analysis memorandum, it is the recommendation of the City Attorney's Office that this claim be disallowed.

BACKGROUND & ANALYSIS:

On July 23, 2020, Denis Navratil, by and through his attorney, Todd Terry, submitted a notice of injury and a claim for damages against the City of Racine, in which he alleged that Cory Mason, in his official capacity as Mayor of the City of Racine, made statements that constituted defamation. The Claimant is requesting \$50,000.00 in damages. Claimant alleges that four false statements were made by Mayor Mason in explanation for denial of a small business grant application. Specifically, the false statements refer to Mr. Navratil's conduct in attending a "Freedom Rally" in Madison, WI, in late April observing a protest. Mr. Navratil claimed to have been a "curious onlooker" when interviewed by a local television reporter. Mayor Mason, in a response to an inquiry by the Journal Times, made the following statements that Claimant considers false, specifically, that the Claimant:

1. "willingly jeopardized public health";
2. "flagrantly violat[ed] safety measures";
3. "openly violat[ed] the statewide 'Safer at Home' order and the public health emergency under which the City of Racine was operating"; and

33 4. “took reckless behaviors that risked the health of our community.”
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35 The Claim is due for decision within 120 days, making the deadline for official action by the
36 Common Council November 21, 2020.

37 **TIMELINE:**

38 March 24, 2020: Governor Evers issues a statewide “Safer at Home” order for thirty days.

39 April 16, 2020: Secretary Andrea Palm extends Governor Evers’ Order to May 26 in Emergency
40 Order #28, which is later declared invalid on a procedural issue.

41 April 22-24, 2020: Mr. Navratil applied for a small business grant through the City of Racine related
42 to the pandemic.

43 April 24, 2020: Mr. Navratil appears on WTMJ-4 at a “Freedom Rally” in Madison, WI, a mass
44 gathering contrary and in protest to Order #28.

45 May 13, 2020: Mr. Navratil’s grant application is denied by the City. That afternoon, the
46 Wisconsin Supreme Court invalidates Secretary-designee Palm’s Order #28 on a
47 procedural issue.

48 June 26, 2020: Mayor Mason is contacted by the Racine Journal Times, and issues a written
49 response regarding Mr. Navratil’s grant denial. The statements at issue above were
50 contained in that written response.

51 The City Attorney’s Office recommends that this Committee disallow Mr. Navratil’s claim for the
52 reasons outlined in a confidential memorandum, provided separately, which contains the privileged legal
53 analysis for this recommendation.

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55 **BUDGETARY IMPACT:**

56 Assuming the recommendation to disallow this claim is adopted, this item would have a \$0.00
57 impact on the City’s budget.

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59 **OPTIONS/ALTERNATIVES:**

60 If the Committee recommends that this claim be paid by the City, this item would have up to a
61 \$50,000.00 impact on the City’s 2020 claims budget.

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63 **RECOMMENDED ACTION:**

64 That the disallowance of the claim of Denis Navratil be recommended for approval.

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66 **ATTACHMENT(S):**

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