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**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORANDUM

COMMITTEE: Finance and Personnel

LEGISLATION ITEM #: 0394-24

AGENDA DATE: May 13, 2024

DEPARTMENT: City Attorney's Office

Prepared By: Deputy City Attorney Marisa L. Roubik

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

EXECUTIVE SUMMARY:

Shelia Edwards filed a claim with the City requesting an unspecified amount in damages for water damage incurred to her basement at 4621 Blue River Avenue, Racine, WI, allegedly due to a burst water pipe on January 6, 2023. The City and the Water Utility deny liability due to defects in the claim as filed. Furthermore, neither the City nor the Water Utility had any constructive or actual knowledge of a defect in this water main on the date in question, and, therefore, the City and the Water Utility are not legally liable for the alleged damages.

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

BACKGROUND & ANALYSIS:

Shelia Edwards filed a claim with the City requesting an unspecified amount in damages for water damage incurred to her basement at 4621 Blue River Avenue, Racine, WI, allegedly due to a burst water pipe on January 6, 2023.

The claim that Ms. Edwards filed with the City on or about January 30, 2024 alleging a January 6, 2023 event that gave rise to the claimed damages was untimely filed, contrary to Wis. Stat. § 893.80(1d)(a), which requires a claim to be filed within 120 days after the happening of the event giving rise to the claim. Moreover, this claim did not include an itemized statement of the relief sought, as required by

31 Wis. Stat. § 893.80(1d)(b). As such, the claimant did not satisfy the statutory requirements for filing a
32 timely claim in accordance with Wis. Stat. § 893.80(1d), and she does not have a right to maintain an action
33 against the City.

34 In instances where neither the City nor the Water Utility had any constructive or actual knowledge
35 of a defect in a water pipe, the City and the Water Utility cannot be held legally liable for the damages
36 resulting from such a defect.

37 Neither the City nor the Water Utility have any records of a water pipe bursting on or about January
38 6, 2023, in the vicinity of 4621 Blue River Avenue; therefore, neither the City nor the Water Utility had
39 constructive or actual knowledge of a defect in a water pipe as alleged in this claim.

40 However, the Water Utility was notified of a 12” water main break at 4618 Blue River Avenue on
41 January 14, 2024, which may have resulted in some water intruding into the basement of 4621 Blue River
42 Avenue on or about January 14, 2024.

43 This January 14, 2024 water main break was the first break reported in the water main in this block.
44 As such, neither the City nor the Water Utility had prior actual or constructive notice that this portion of
45 the water main was compromised. Therefore, the City and the Water Utility are not legally liable for the
46 alleged damages.

47 For the above stated reasons, it is the recommendation of the City Attorney’s Office that this claim
48 be disallowed.

49 _____

50 **BUDGETARY IMPACT:**

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

53 _____

54 **RECOMMENDED ACTION:**

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

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