



City of Waukesha
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Committee: None	Date: Click here to enter a date.
Agenda Item Number: 23-7871	Date: 10/17/2023
Submitted By: Brian Running	City Administrator Approval: Click here to enter text.
Finance Department Review: Click here to enter text.	City Attorney's Office Review: BER
Subject: Claim for damages, ProSource Distributors.	

Details:

A ProSource Distributors was driving a straight truck with a 13' 6" tall van body on Delafield Street, through the construction zone near Moreland Boulevard. The driver hit a low branch overhanging the street and damaged the van body. Repair estimate is \$7612.22. ProSource alleges that the city negligently routed traffic in a lane with low-hanging branches, and did not adequately post warning signs.

Drivers have a duty of lookout and bear responsibility for driving their vehicles safely. A driver of a 13' 6" tall truck has a duty to watch for low overhead clearances and not drive into them. Even if we assume some liability on the city's part, there is certainly contributory negligence on the part of the driver. We do not recommend resolving issues of contributory negligence by the Common Council, and believe that should be resolved in court.

A disallowance of the claim will shorten the time in which a suit against the city can be filed. All cases are referred to mediation before they go to trial, and there is a much better opportunity to resolve the matter in mediation. We recommend disallowance of the claim.

Options & Alternatives:

No alternative is recommended.

Financial Remarks:

There is no financial impact to the city from a disallowance.

Executive Recommendation:

Disallowance of the claim.