

**CITY OF WAUKESHA****Administration**

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Committee: None	Committee Meeting Date: Click here to enter a date.
Agenda Item Number: 18-1617	Common Council Meeting Date: 11/8/2018
Submitted By: Brian Running, City Attorney	City Administrator Approval: Kevin Lahner, City Administrator KL
Finance Department Review: Rich Abbott, Finance Director RA	City Attorney's Office Review: Brian Running, City Attorney BER
Subject: Disallowance of claim for personal injury damages submitted by Barbara Friedel.	

Details:

A claim for damages was filed with the City Clerk on July 13, 2018, by Barbara Friedel, in which she alleges a trip and fall on an uneven joint in a city sidewalk on Cheviot Chase. She suffered a broken wrist, cracked teeth, and a cut lip. She had unreimbursed medical expenses, in an indeterminate amount. She submitted a bill for dental work totaling \$6405. She also claims \$10,000 in pain and suffering.

As with all personal-injury claims, there are issues of whether the city was at fault, whether the fall took place on city property, whether the claimant was also at fault, whether the city has immunity, etc., etc. There will also be a subrogation lien from her health insurance company that she will have to be deal with. Personal-injury claims cannot fairly be resolved just on the basis of a demand for damages, a lawsuit will be necessary.

Options & Alternatives:

There are three options to consider: Pay the claim, disallow the claim, or take no action. Paying the claim would require payment from city funds, because our liability insurer denies coverage. By disallowing the claim, the time period in which Ms. Friedel may file suit against the city is shortened to 6 months from the date of disallowance. By doing nothing, Ms. Friedel would have six years from the date of the incident to file suit. Payment of the claim is not recommended for several reasons: It would result in no insurance coverage and require payment from city funds, it is not clear that the city is at fault in any way, it is clear that the claimant is at least partially at fault, and the city is provided immunity by state statute from such claims. Taking no action is not recommended because we have the opportunity to shorten the period in which a suit may be filed, and that helps the city to reduce and manage its contingent liabilities.

Financial Remarks:

There is no cost or fee to deny the claim. Any actual financial impact would be determined in Court, should that happen.

Staff Recommendation:

City Attorney's office recommends disallowance of the claim and a notification to the claimant of her rights under the law.