City of Stoughton, 381 E. Main Street, Stoughton WI 53589

RESOLUTION OF THE FINANCE COMMITTEE			
Authorizing and directing the proper city official(s) to pay the claim of Mary K. Martinson.			
Committee Action:	Recommend Denial 4-0 with Olson voting		
Fiscal Impact:	$1,913.20		
File Number:	R- 8-2011	**Date Introduced:**	February 8th, 2011

WHEREAS, a claim has been filed against the City of Stoughton by Mary K. Martinson, 2085 Green Road, Stoughton WI, 53589 for damages in the amount of $1,913.20 and

WHEREAS, the claim involved a slip and fall incident on the sidewalk at the Library location on the corner of 4th and Main Street and

WHEREAS, your insurance carrier, CVMIC has reviewed all the circumstances of the claim and has determined the City is immune from liability based on Wisconsin Statute 893.83 which states "no action may be maintained to recover damages for injuries sustained by reason of an accumulation of snow or ice upon any bridge or highway, unless the accumulation existed for 3 weeks". (Courts have recognized public sidewalks as falling under the definition of a highway) and

WHEREAS, your Finance Committee met on January 25, 2011 to consider the claim and recommends the determination of CVMIC be sustained and the claim be denied, now therefore

BE IT RESOLVED by the Common Council of the City of Stoughton that the proper city official be hereby authorized and directed to pay the claim for Mary K. Martinson in an amount of $1,913.20.

Council Action: ☐ **Adopted** ☐ **Failed** **Vote** _____

Mayoral Action: ☐ **Accept** ☐ **Veto**

_____

Donna Olson, Mayor Date

Council Action: _____ ☐ **Override** **Vote** _____

FINANCE COMMITTEE MEETING MINUTES
January 25, 2011 – 5:30 p.m.
City Hall, Hall of Fame Room

Present:
Alderpersons Steve Tone, Erik Olstad and Paul Lawrence.

Others Present:
Finance Director/Treasurer Laurie Sullivan, Mayor Donna Olson, Deputy Treasurer Julie Roberts, Planning Director Rodney Scheel and City Clerk Personnel Director Kelly Michaels.

Absent and Excused: Ross Scovotti.

Call to order:
Finance Chair Tone called the meeting to order at 5:30pm.

Mary Martinson Claim:
CVMIC recommends denial of this claim. In their opinion the City is using reasonable care in maintaining their sidewalks as the area was inspected and cleaned up two days prior to the incident. Moved by Olstad, seconded by Lawrence to recommend Council deny the claim. Motion carried 4-0 with Mayor Olson voting.

Kelly Michaels

From: Tom Mann [tem@cvmic.com]
Sent: Wednesday, January 19, 2011 10:25 AM
To: Kelly Michaels
Subject: Martinson v Stoughton; DOL:12-29-10

Kelly

I am in receipt of the above claim for damages that has been filed against the City of Stoughton in the amount of 1,913.20 for injuries as a result of a slip and fall by the library. Based on the information that I have received, it is my opinion that the City is immune from liability based on Wis. Stat. 893.83 and would therefore recommend that this claim be denied.

According to the weather reports that I have received, there was 2.5 inches of snowfall on December 21, 2010. Wis. Stat. 893.83(1) states that "No action may be maintained to recover damages for injuries sustained by reason of an accumulation of snow or ice upon any bridge or highway, unless the accumulation existed for 3 weeks". The courts have recognized that public sidewalks as falling under the definition of a highway.

Even if this statute would not apply, I would still recommend that this claim be denied as it is my opinion that the City is using reasonable care to maintain their sidewalks as the City inspected this area two days prior to this incident and did cleanup.

Should you have further questions regarding this matter, please feel free to contact me.

Tom Mann

CVMIC CITIES & VILLAGES MUTUAL INSURANCE COMPANY

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Kelly Michaels

To: Rodney J. Scheel
Subject: RE: Martinson v Stoughton; DOL:12-29-10

From: Rodney J. Scheel
Sent: Tuesday, January 18, 2011 3:26 PM
To: Donna Olson; Kelly Michaels
Subject: RE: Martinson v Stoughton; DOL:12-29-10

Mayor and Kelly,

I have attached an outline of dates that we conducted snow/ice maintenance at our City building locations with the associated snowfall and precipitation records for Stoughton. I have also attached the source weather data sheets. Our routine maintenance includes snow blowing, shoveling and salting. I believe the frequency in which we provided this type of service at our City Buildings reinforces our "inspection" process even though daily "inspection" logs are not maintained for each building. Based on this data, we conducted cleanup efforts 2 days prior to this event.

While we cannot guarantee that these properties are completely ice/snow free at all times, we believe reasonable care and methods have been used to frequently maintain the sidewalks. I do not believe the City has been negligent in these efforts.

I look forward to having a teleconference to discuss the ongoing data collection expectations with CVMIC and how they may relate to this claim. Please let me know if there is additional information we can provide.

Rodney Scheel
City of Stoughton
Director of Planning & Development

608.873.6619 p
608.873.5519 f

Snow Maintenance at City Buildings by Planning Department Staff

Dates work was completed
between 11/21/2010 and 1/15/2011:

12/1		
12/4	2.5 inch snow and .27 precipitation	
12/6		
12/8		
12/9		
12/10	1.5 inch snow and .12 precipitation	
12/12		
12/13		
12/14		
12/17		
12/21	2.5 inch snow and .20 precipitation	
12/25		
12/27		
	12/30 had .01 precipitation	
	12/31 had .02 precipitation	
1/4/2011	trace precipitation	
	1/5/2011	trace precipitation
	1/6/2011	trace precipitation
1/7	trace precipitation	
1/8		
1/11	1.0 inch snow and .04 precipitation	
1/12	1.5 inch snow and .14 precipitation	
1/13	trace precipitation	
1/14	trace precipitation	
1/15	2.5 inch snow and .12 precipitation	

NOWData - NOAA Online Weather Data

STOUGHTON (478229)
Observed Daily Data
Month: Dec 2010

Day	MaxT	MinT	AvgT	HDD	CDD	Pcpn	Snow	Snwg
1	35	20	27.5	37	0	T	0.0	0
2	25	16	20.5	44	0	T	0.0	0
3	30	14	22.0	43	0	0.00	0.0	0
4	28	14	21.0	44	0	0.27	2.5	2
5	25	12	18.5	46	0	M	0.0	2
6	14	8	11.0	54	0	0.00	0.0	2
7	19	8	13.5	51	0	0.00	0.0	2
8	21	8	14.5	50	0	0.00	0.0	2
9	22	3	12.5	52	0	0.00	0.0	2
10	29	11	20.0	45	0	0.12	1.5	4
11	33	21	27.0	38	0	0.00	0.0	3
12	37	9	23.0	42	0	M	M	8
13	30	3	16.5	48	0	0.00	0.0	8
14	10	-6	2.0	63	0	0.00	0.0	8
15	14	-9	2.5	62	0	0.00	0.0	8
16	18	-8	5.0	60	0	0.00	0.0	8
17	20	12	16.0	49	0	0.00	0.0	8
18	19	3	11.0	54	0	0.00	0.0	8
19	17	4	10.5	54	0	0.00	0.0	7
20	11	3	7.0	58	0	0.00	0.0	7
21	29	11	20.0	45	0	0.20	2.5	10
22	31	19	25.0	40	0	0.00	0.0	10
23	33	21	27.0	38	0	0.00	0.0	9
24	27	22	24.5	40	0	0.00	0.0	9
25	29	21	25.0	40	0	0.00	0.0	9
26	26	17	21.5	43	0	0.00	0.0	9
27	19	10	14.5	50	0	0.00	0.0	9
28	22	7	14.5	50	0	0.00	0.0	9
29	24	8	16.0	49	0	0.00	0.0	9
30	37	13	25.0	40	0	0.01	0.0	7
31	44	35	39.5	25	0	0.02	0.0	4
Smry	25.1	10.6	17.9	1454	0	0.62	6.5	5.9

Official data and data for additional locations and years are available from the Regional Climate Centers and the National Climatic Data Center.

NOWData - NOAA Online Weather Data

STOUGHTON (478229)
Observed Daily Data
Month: Jan 2011

Day	MaxT	MinT	AvgT	HDD	CDD	Pcpn	Snow	Snwg
1	40	9	24.5	40	0	0.00	0.0	0
2	23	8	15.5	49	0	0.00	0.0	0
3	22	20	21.0	44	0	0.00	0.0	0
4	28	22	25.0	40	0	T	M	M
5	22	3	12.5	52	0	T	0.0	0
6	25	4	14.5	50	0	T	0.0	0
7	22	12	17.0	48	0	T	0.0	0
8	17	9	13.0	52	0	0.00	0.0	0
9	20	2	11.0	54	0	0.00	0.0	0
10	28	11	19.5	45	0	0.00	0.0	0
11	31	14	22.5	42	0	0.04	1.0	1
12	25	18	21.5	43	0	0.14	1.5	2
13	27	13	20.0	45	0	T	T	2
14	23	10	16.5	48	0	T	T	2
15	21	14	17.5	47	0	0.12	2.5	4
16	22	5	13.5	51	0	0.00	0.0	4
17	21	14	17.5	47	0	0.04	0.5	5
18	M	M	M	M	M	M	M	M
19	M	M	M	M	M	M	M	M
20	M	M	M	M	M	M	M	M
21	M	M	M	M	M	M	M	M
22	M	M	M	M	M	M	M	M
23	M	M	M	M	M	M	M	M
24	M	M	M	M	M	M	M	M
25	M	M	M	M	M	M	M	M
26	M	M	M	M	M	M	M	M
27	M	M	M	M	M	M	M	M
28	M	M	M	M	M	M	M	M
29	M	M	M	M	M	M	M	M
30	M	M	M	M	M	M	M	M
31	M	M	M	M	M	M	M	M
Smry	24.5	11.1	17.8	797	0	0.34	5.5	1.2

Official data and data for additional locations and years are available from the Regional Climate Centers and the National Climatic Data Center.

Emailed to CVMIC 1/14/2011 @ 9:00 am

RECEIVED
JAN 14 2011
CITY OF STOUGHTON

City of Stoughton
381 E. Main Street
Stoughton, WI 53589
(608) 873-6677

NOTICE OF CLAIM

Name: Mary K. Martinson
Address: 2085 Green Rd
Stoughton
Phone: 873-86026

Estimate of Damage
Auto: $
Property: $
Personal Injury: $ 1913.20 Emergency Room Bill
Other: $
(Specify:)

Incident/Accident Information
Date: December 29, 2010
Time: about 4 pm
Location: Corner of 4th and Main St. / on sidewalk outside of Library

CIRCUMSTANCES OF CLAIM

In the space below briefly describe the circumstances of your claim. (Attach addition sheets, if necessary.) For auto damages attach a copy of the police report, if any, and attach a diagram of the accident scene including north, south, east or west corners if the accident occurred at an intersection. For personal injury, indicate the nature of the injury and whether or not medical attention was given and give the name of the attending physician. For property, describe events that led to damage. For all damages, attach estimates for repair or replacement. Also identify any witnesses to the incident/accident.

I was walking with my son from the library to the bakery. As I was turning the corner my left foot hit a patch of ice build up. Both feet came out from beneath me and the whole left side of my body and head slammed onto the red brick sidewalk. On 12-31-10 a.m. I went to Urgent Care at Stoughton Hospital because I still had a headache from the fall and had developed dizziness. I was told by the librarian after the accident that someone had fallen on the ice the day before, outside the library.

Signed: Mary K Martinson Date: 1-13-11

CLAIM

(NOTE: You are not required to make a claim at this time. As long as you have filed the above Notice of Claim you may file a claim with the City of Stoughton at any time consistent with the applicable statute of limitations. However, in order for the City of Stoughton to formally accept or deny your claim at this time, the following claim must be completed, with a dollar amount, and signed.)

The undersigned hereby makes a claim against the City of Stoughton arising out of the circumstances described above. The claim is for relief in the form of money damages in the amount of $ 1913.20 and ~~non-monetary relief as follows~~: _____
(cross out if not applicable)

Signed: Mary K Martinson Date: Jan. 13, 2011
Address: 2085 Green Rd, Stoughton

STOUGHTON HOSPITAL ASSOCIATION
900 RIDGE STREET

3973344

STOUGHTON WI 535891896

608-873-8626 REPPLINGER, MICHAEL 03-31-48

MARTINSON, MARY K 12/31/10 12/31/10 5/06/1962 74446 00066623202

MARTINSON, MARY K
2085 GREEN RD

STOUGHTON, WI 53589

5001 DEAN CARE

8001 ACCIDENT INSURANCE

	0350 CT SCAN				
5200019	HEAD W/O IV CONTRAST	12/31/2010	1	70450	1,296.85
	** SUBTOTAL **		1		1,296.85
	0450 EMERGENCY ROOM				
3500071	ER LOW LEVEL	12/31/2010	1	99282	244.95
	** SUBTOTAL **		1		244.95
	0981 PRO FEE/ER				
3701463	EMERGENCY ROOM LEVEL IV	12/31/2010	1	99284	371.40
	** SUBTOTAL **		1		371.40

*** TOTAL CHARGES --> 1,913.20

1,913.20