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**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORANDUM

COMMITTEE: Finance and Personnel

LEGISLATION ITEM #: 1328-19

AGENDA DATE: December 9, 2019

DEPARTMENT: City Attorney's Office

Prepared By: Assistant City Attorney Marisa Roubik

SUBJECT: Communication sponsored by Alder Shakoor II on behalf of the City Attorney's Office submitting the claim of Michael Straube and Dylan Straube for consideration for disallowance.

EXECUTIVE SUMMARY:

Michael Straube and Dylan Straube filed a claim with the City requesting \$1,876.00 in damages resulting from repairs to a vehicle owned by Michael Straube after Dylan Straube allegedly drove over a fallen traffic control sign at Charles Street and Saint Patrick Street on or about October 28, 2019. The City is not liable for these damages because the City did not have prior notice of this sign being down, and the claimant/driver failed to use reasonable care when he saw the sign in the road, yet proceeded to drive over the sign causing the alleged damage to his vehicle. For these reasons, it is the recommendation of the City Attorney's Office that this claim be disallowed.

BACKGROUND & ANALYSIS:

Michael Straube and Dylan Straube, of 1638 Charles Street, Racine, WI 53402, filed a claim for reimbursement requesting \$1,876.00 in damages resulting from repairs to a vehicle owned by Michael Straube after Dylan Straube allegedly drove over a fallen traffic control sign at Charles Street and Saint Patrick Street on or about the morning of October 28, 2019.

The City is immune from liability for these alleged damages pursuant to Wis. Stat. § 893.80 because the City had no prior notice of this sign being down and/or its existence in the roadway. Once the City was notified that this sign had come down and was laying in the roadway, Police officers and Department of Public Works employees responded promptly on the morning of October 28, 2019 to ensure the sign was removed from the roadway and restored to its proper location.

32 Furthermore, all drivers have a duty to use reasonable care when operating a vehicle. In the instant case,
33 the claimant/driver failed to use reasonable care when he saw the sign in the road, yet proceeded to drive
34 over the sign causing the alleged damage to his vehicle.

35 For the reasons set forth above, it is the recommendation of the City Attorney's Office that this claim be
36 disallowed.

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38 **BUDGETARY IMPACT:**

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

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42 **OPTIONS/ALTERNATIVES:**

43 If the Committee recommends that this claim be paid by the City (contrary to any indication of the City's
44 liability for the alleged damages), this item would have up to a \$1,876.00 impact on the City's 2019 claims
45 budget.

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47 **RECOMMENDED ACTION:**

48 That the disallowance of the claim of .Michael Straube and Dylan Straube be recommended for approval.

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50 **ATTACHMENT(S):**