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**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORADUM

COMMITTEE: Finance and Personnel

LEGISLATION ITEM #: 0376-18

AGENDA DATE: May 21, 2018

DEPARTMENT: City Attorney's Office

Prepared By: Nhu Tran

Reviewed By:

SUBJECT: Claim of Timothy Wermeling, City Attorney File No. 2018-0049

EXECUTIVE SUMMARY:

Timothy Wermeling filed a claim with the city demanding \$425.00 in damages which allegedly resulted from a city snow plow hitting his vehicle on February 4, 2018. Since there is no proof that the damage to the vehicle was caused by the City, this office recommends that this claim be denied.

BACKGROUND & ANALYSIS:

On February 4, 2018, Mr. Wermeling filed a report with the City of Racine Police Department indicating that his vehicle, which had been parked on the street, was damaged by a city snow plow. When the officer arrived on the scene, he noticed a very small spot on the passenger side of the hood, where the silver paint had been chipped on the vehicle. The scratch was approximately ¼ inch long. Mr. Wermeling informed the officer that he observed a snow plow on his street earlier that day and believed it belonged to the city because it had a large side plow and was yellow in color. Mr. Wermeling did not observe the incident but only later noticed the damage to his vehicle, some time after the snow plow left.

Records from the City of Racine Public Works Department (DPW) reveal that there were no reports of any collision or incident involving any DPW vehicles from that date. Additionally, DPW only uses snow plows that are orange in color and not yellow, so it could not have been a city snow plow that caused the damage (assuming the witness was correct). Also of note is the fact that the damage was only to the passenger side of the vehicle (a small scratch on the hood). The 2500 block of Maryland Avenue is a two

31 way street and there is no indication that the vehicle was illegally parked, which means the passenger side
32 of the vehicle would have been parked next to the curb. This makes it almost impossible for a snow plow
33 to have caused that sort of damage to the right side of the hood (next to the curb) without causing any
34 damage to the driver's side or front side of the vehicle.

35 Because there is no proof that the City caused the alleged damages to Mr. Wermeling's vehicle, we
36 recommend that you deny the claim.

37 _____

38 **BUDGETARY IMPACT:**

39 None

40 _____

41 **OPTIONS/ALTERNATIVES:**

42 Pay the claim.

43 _____

44 **RECOMMENDED ACTION:**

45 Deny the claim.

46 _____

47 **ATTACHMENT(S):**