



## *Office of the City Attorney*

City Hall, Suite 206  
201 Delafield Street  
Waukesha, Wisconsin 53188-3646  
Telephone (262) 524-3520  
Fax (262) 650-2569  
Email [attorneys@waukesha-wi.gov](mailto:attorneys@waukesha-wi.gov)

Brian E. Running  
*City Attorney*  
Miles W.B. Eastman  
*Assistant City Attorney*  
Julie M. Gay  
*Assistant City Attorney*  
Anne Marie Iselin  
*Assistant City Attorney*  
Donna Hylarides Whalen  
*Assistant City Attorney*  
Rebecca L. Pipp  
*Legal Assistant*

September 20, 2018

### **Memorandum**

To: Common Council  
From: Brian Running  
Re: Damages Claim of Zach Danby

On September 18, the City was served with a claim for damages by Zach Danby, for damages allegedly caused to his car by a City forestry crew. The claim accompanies this memo.

Our forestry crew was grinding a stump across the street from Mr. Danby's car. Mr. Danby alleges that either debris flying from the stump grinder or some other actions that the crew took damaged his car. He claims \$1026.83 in damages.

We recommend disallowance of this claim because the allegations in the claim do not clearly show that the City is at fault. In other words, we cannot admit full responsibility on the basis of the proof he has submitted. The City Forester made a report of the incident, which also accompanies this memo, and raises a reasonable doubt as to whether the City is responsible for the damage. The claim has photos of damage to what appears to be the vehicle's door, but the repair estimate includes repair to a rear door, rear quarter panel, rear bumper, and taillights.

A disallowance does not mean that Mr. Danby can't recover for damages. It means that Mr. Danby must file suit against the City and prove his damages. The claim simply does not show enough proof that the City is at fault, so he will have to meet his burden of proof in court. A disallowance also shortens the time period in which he can file suit against the City.