

#34.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
2009-0324	Claim	Claim Report
Spoerl Trucking, Inc. communication regarding vehicle damage allegedly sustained on January 6, 2009.		
Introduced: 5/19/2009		Controlling Body: Administration & Finance Committee

COMMITTEE RECOMMENDATION

POF

ACTION DATE:
AUG 04 2009

MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
		Barczak				
		Czaplewski				
<i>X</i>		Kopplin	<i>✓</i>			
		Lajsic	<i>✓</i>			
		Narloč				<i>✓</i>
	<i>X</i>	Reinke	<i>✓</i>			
		Roadt				
		Sengstock				
		Vitale	<i>✓</i>			
		Weigel				
TOTAL			<i>4</i>	<i>-</i>		<i>1</i>

SIGNATURE OF COMMITTEE MEMBER

Just E. Kopplin
 Chair _____ Vice-Chair _____ Member _____

COMMON COUNCIL ACTION *POF & Placed on file*

ACTION DATE:
AUG 04 2009

MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
		Barczak	<i>✓</i>			<i>✓</i>
<i>✓</i>		Czaplewski	<i>✓</i>			
		Kopplin	<i>✓</i>			
		Lajsic	<i>✓</i>			
		Narloč				<i>✓</i>
		Reinke	<i>✓</i>			
		Roadt	<i>✓</i>			
		Sengstock	<i>✓</i>			
	<i>✓</i>	Vitale	<i>✓</i>			
		Weigel	<i>✓</i>			
TOTAL			<i>8</i>	<i>-</i>		<i>2</i>



OFFICE OF THE CITY ATTORNEY

July 13, 2009

Scott E. Post
City Attorney

Common Council
City of West Allis

Sheryl L. Kuhary
Jeffrey J. Warchol
Jenna R. Merten
Assistant City Attorneys

RE: City Attorney's Report of Claim

Dear Council Members:

The enclosed claim has been referred to this office in accordance with Section 3.05(8) of the Revised Municipal Code. This office has examined the facts of the claim and the applicable law. Our Opinion regarding liability is as follows:

It is the recommendation of this office that the following claim be paid and placed on file:

Spoerl Trucking, Inc. – Amount \$1,763.82

This is a claim for damages to a vehicle owned by claimant, Spoerl Trucking, Inc., on January 6th, 2009, when an on duty City employee, while backing up a City van in the Rundle Spence parking lot located at 2075 South Moorland Road, New Berlin, WI, struck the claimant's unoccupied parked vehicle causing damage to the front bumper area. On May 1st, 2009, the claimant filed a claim against the City with accompanying estimates for repair of the vehicle.

Our investigation of this claim indicated that the City employee was at fault for the accident by failing to keep a proper look out while backing up his vehicle. The estimates for repair submitted by the claimant matched up to the damages sustained at the scene. Pursuant to settlement guidelines, the City Attorney's Office paid this claim in the amount stated above and obtained a Property Damage Only Release signed by an authorized personnel of the claimant.

Based upon the above, it is the recommendation of the City Attorney's Office to place this claim on file.

Respectfully submitted,


Jeffrey J. Warchol
Assistant City Attorney

JJW:da

PROPERTY DAMAGE ONLY RELEASE

KNOW ALL MEN BY THESE PRESENTS that SPOERL TRUCKING, INC, for and in consideration of One Thousand Seven Hundred Sixty-three and 82/100 Dollars (\$1,763.82) the receipt whereof is hereby acknowledged, do hereby forever release, acquit and discharge the City of West Allis, Wisconsin, a municipal corporation, its departments, commissions, officials, agents and employees, his, her, its or their successors and assigns and all others directly or indirectly liable, from any and all claims and demands, actions and causes of action, damages, both known and unknown, including future developments thereof, costs, loss of service and compensation on account of, or in any way growing out of, any and all known and unknown property damage resulting or to result from that certain accident on or around January 6th, 2009, when a City of West Allis van, while backing up in the Rundle Spence parking lot located at 2075 South Moorland Road, New Berlin, WI, struck an un-occupied, parked 2005 Peterbilt, causing property damage to the front bumper of the Peterbilt.

I agree that this settlement is in full compromise of a doubtful and disputed claim both as to the question of liability and damages and that the payment is not to be construed as an admission of liability.

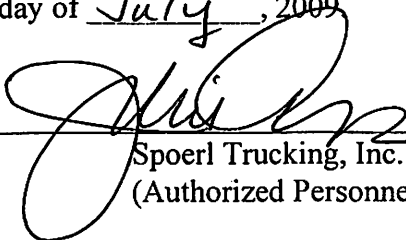
I agree that this is a complete release of property damage only and it is understood and agreed that it doesn't constitute a release for any bodily injury resultant from this accident as there were no bodily injuries as a result of this accident.

I further agree that this release and payment pursuant thereto is not to be construed as a waiver by or an estoppel of any party released to prosecute a claim or action against the undersigned for any damages sustained.

This Release contains the ENTIRE AGREEMENT between the parties hereto, and the terms of this Release are contractual and not a mere recital.

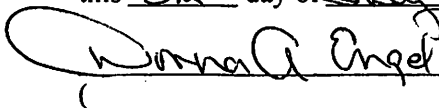
I HAVE READ THE FOREGOING RELEASE AND FULLY UNDERSTAND IT. I FURTHER UNDERSTAND THAT I HAVE THE OPPORTUNITY TO DISCUSS AND NEGOTIATE THE TERMS OF THIS RELEASE WITH THE WEST ALLIS CITY ATTORNEY AND SPECIFICALLY WAIVE SUCH OPPORTUNITY.

Signed and sealed this 8th day of July, 2009



Spoerl Trucking, Inc.
(Authorized Personnel)

Subscribed and sworn to before me
this 8th day of July, 2009.


_____)

Notary Public, State of Wisconsin
My Commission Expires: 09/19/2010
JJW: da
L/Jeff/Claims/Release/PD Only-Spoerl Trucking Inc

RECEIVED

JUL 09 2009

WEST ALLIS
CITY ATTORNEY

SPOERL TRUCKING, INC.

W1307 Industrial Drive ~ Ixonia, Wisconsin 53036
Phone (262) 569-7718 ~ Fax (262) 569-7720

April 28, 2009

City Administrator office/clerk/treasurer
West Allis City Hall
7525 W Greenfield Av.
West Allis, WI 53214
Attn. Paul Ziehler

RE: Accident Damages
City of West Allis, 2004 Chevrolet Van
Vin# 1GCG250X31208094
Driver: Michael Tafuta

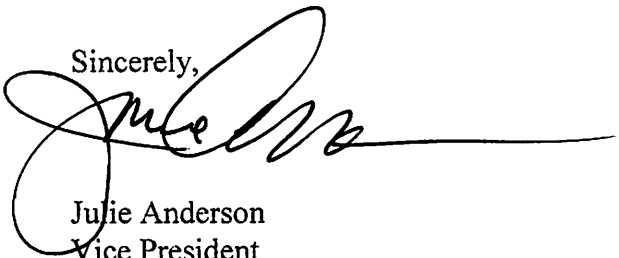
Please find enclosed per your request, copy of police accident report and two estimates regarding accident damage to our 2005 Peterbilt on January 6, 2009.

If you have any questions, please feel free to contact me at 262-569-2832

Please forward repair check to:

Spoerl Trucking
W1307 Industrial Dr.
Ixonia, WI 53036
Attn. Julie Anderson

Sincerely,



Julie Anderson
Vice President

Cc: Safety
file

RECEIVED

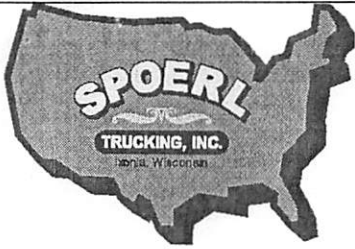
MAY 01 2009

**CITY OF WEST ALLIS
CLERK/TREASURER**

DCT 543340

MC 270220

LC 59876



Date February 20, 2009
 P.O. #: 503
 Customer ID:

ESTIMATE

Spoerl Shop
 Spoerl Trucking, Inc.
 W1307 Industrial Dr.
 Ixonia, WI 53036
 262-569-7718

Shipping Method	Shipping Terms	Delivery Date
TRUCK/503		2/20/09

Qty	Item #	Description	REF	Unit Price	Line Total
1.00	15-06837-002	Bumper Assembly			\$1,129.07
1.00	15-06830L	Air Dam Left			\$147.04
1.00	15-06830R	Air Dam Right			\$147.04
1.00	01-600336	Crossmeber Assy-upper			\$423.68
					\$0.00
					\$0.00
					\$0.00
3.5 hours		LABOR @ 68.00			\$238.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
	CONT			SHIPPING	\$0.00

Subtotal	\$2,084.83
Sales Tax	114.66
Total	\$2,199.49

Authorized by

Date

1. Please send two copies of your invoice.
2. Enter this order in accordance with the prices, terms, delivery method, and specifications listed above.
3. Please notify us immediately if you are unable to ship as specified.
4. Send all correspondence to:

Spoerl Trucking, Inc.
 W1307 Industrial Dr.
 Ixonia, WI 53036
 262-569-7718
 262-569-7720

[Street Address], [City, ST ZIP Code] [Phone] [Fax] [E-mail]

JOB QUOTATION



T/A
Truck
Painting
Inc.

COMPLETE BODY & PAINT SHOP
CUSTOM PAINTING • DESIGN SERVICE • CRASH REPAIR SPECIALIST

1291 Hickory St. • Pewaukee, WI 53072
(262) 691-1410 • FAX (262) 691-4528

NAME SPORTEL TRUCKING
ADDRESS IXONIA

DATE 4/10/09
PHONE 262-569-7700
DATE WANTED _____

YR	MAKE	SN	MODEL NO.	ENG. MILEAGE	TRANS.	CAB	FLEET NO.	
05	FETC	D871969	387				503	
REPAIR	REPLACE				SERVICES	PARTS AND MATERIALS		SUBLET
<input checked="" type="checkbox"/>		FRT BUMPER			1.5	1298	43	
<input checked="" type="checkbox"/>		LEFT BUMPER BRKT			.5	231	39	
<input checked="" type="checkbox"/>		ST. FRM LEFT MOUNT			1.0			

SUB TOTALS

COST OF SERVICES	234	00
PARTS AND MATERIALS	1529	82
SUBLET		
TOTAL	1763	82
TAX		
GRAND TOTAL	1763	82

THIS REPORT IS BASED ON OUR INSPECTION AND DOES NOT COVER ADDITIONAL PARTS OR LABOR WHICH MAY BE REQUIRED AFTER THE WORK HAS BEEN STARTED. AFTER THE WORK HAS STARTED, WORN OR DAMAGED PARTS WHICH ARE NOT EVIDENT ON FIRST INSPECTION MAY BE DISCOVERED. NATURALLY THIS REPORT CANNOT COVER SUCH CONTINGENCIES. PARTS AND SERVICE PRICES SUBJECT TO CHANGE WITHOUT NOTICE.

Vehicle Accident Informational Form

New Berlin Police Department
16300 W. National Ave.
New Berlin, WI 53151
262-782-6640
262-782-9033 (fax)

Incident Report Number _____
Date _____
Officer STUCHLIK
Towed by _____
Tow Company # _____

1. How do you obtain an accident report?

Accident reports can be obtained at the New Berlin Police Department by contacting the Records Division Monday through Friday between 7am and 7pm. Due to a recent decision of the Federal District Court for the Western District of Wisconsin, the release of information obtained through Motor Vehicle Department records was a violation of the Drivers Privacy Protection Act. This Act prohibits the release of personal information about any individual in connection with a motor vehicle record. Personal information (driver's license numbers and dates of birth) will be redacted from State Accident reports if requested from our department.

2. I was involved in an accident, what information about me or the drivers can be released and to whom?

Based on the Drivers Privacy Protection Act and the Federal District Court decision in Deicher et al vs City of Evansville, Wisconsin, et al, Case No. 06-C-0356-S Wis., personal identifiable information will be redacted (removed) from copies of accident reports requested from our department. The information redacted will be the dates of birth and driver's license numbers.

Insurance companies will receive the un-redacted copies of accident reports if requested through our Records Division.

3. When can I pick up a copy of my accident report?

Accidents which are considered reportable in nature and investigated by law enforcement are required to be sent to the Department of Transportation by the investigating agency within 10 days. The accident report will be completed in the 10 days, but generally will be available within 72 hours. You should call the police department ahead of time, if you wish to get a copy prior to 10 days after the accident. If you pick up a copy of your accident report, you will receive a redacted copy (the other drivers personal identifiable information removed).

Name: Tafota Michael J
Last First Middle Initial

Address: 1041 S. 90 St City of Wisc Hills VAN

Phone: 302-8808

Vehicle: 2004 Chevy Van White
Year Make Model Color

License Plate #: WV 63749 VIN# 1N8G19352X31208274

Insurance Co: Quincy 1-262-784-5666

Complete the above information and exchange with other driver involved. This will allow you to provide your insurance company with necessary information.



CITY CLERK/TREASURER'S OFFICE

414/302-8200 or 414/302-8207 (Fax)

www.ci.west-allis.wi.us

Paul M. Ziehler

City Admin. Officer, Clerk/Treasurer

Monica Schultz

Assistant City Clerk

Rosemary West

Treasurer's Office Supervisor

May 13, 2009

Spoerl Trucking
W1307 Industrial Dr.
Ixonla, WI 53036

Attn: Julie Anderson

Dear Ms. Anderson:

This letter acknowledges receipt of your communication regarding vehicle damage allegedly sustained on January 6, 2009.

The original document will be submitted to the Common Council at its meeting of May 19, 2009.

It is not anticipated that a decision regarding this matter will be made on this date. Generally, all communications are directed to the City Attorney's office for investigation. Common Council action regarding your communication will not be taken until the City Attorney's investigation is completed. Any questions you may have regarding this matter should be directed to their attention.

Sincerely,

Monica Schultz
Assistant City Clerk

/jl

cc: City Attorney



NEW BERLIN POLICE DEPARTMENT

Joseph Rieder
Chief of Police

Phone: 262.782.8840
FAX: 262.782.9033

FAX COVER LETTER

TO: WEST ALLIS DA'S OFFICE

ATTENTION: DARILYN

DATE: 5-14-09

FROM: RECORDS

TOTAL NUMBER OF PAGES TO FOLLOW: 4

COMMENTS:

Regarding City of West Allis
van accident (non-reportable)

*******Confidentiality Note*******

The document(s) accompanying this telecopy transmission contain(s) information from the New Berlin Police Department which is confidential or privileged. The information is intended to be for the use of the individual or entity named in the transmission sheet. If you are not the intended recipient, be aware that any disclosures, copying distribution or use of the privacy of the intended telecopied information is prohibited and may constitute an invasion of the privacy of the intended recipient. If you have received this telecopy in error, please notify us by telephone (collect) immediately so that we can arrange for the retrieval of the original documents at no cost to you.

16300 WEST NATIONAL AVENUE NEW BERLIN, WISCONSIN 53151



CAD Abstract Report

EVENT No. P/2009-0000453

No. 5745 P. 3

New Berlin PD

May 14 2009 9:37AM

May 14 2009

***** Event No. P/2009-0000453 *****

Date: 01/06/2009 Day: TUE Rcv: 10:45:43 Dsp: 10:46:45 Enr: 10:46:45 Arv: 10:47:23 C/S: Cmp: 10:58:23
 Location: 2075 S MOORLAND RD RUNDLE SPENC Jur: NEWB Forced: N Case No: -
 Call Taker: 4351 Unit(s): 118
 Call Code: ACCIDENT/PROPERTY Cmp Code: ACCIDENT/PROPERTY
 Disposition: OFFICER NOTES Priority: 2 Origin: TELEPHONE
 Police: Fire: 23 EMS: Other: Dist:
 Rpt By: JAFUTA, MICHAEL Addr: Phone: (414)587-6197 City: St: WI
 License No: State: Make: Model: Style: Color:
 Narrative: CITY OF WEST ALLIS VAN EAST LOT

Unit No: 118 Agency: NBPD Case No: 0000-00000000
 Officer 1: 40300 JOHANNIK, THOMAS L Officer 2:
 Rcv: 10:45 Dsp: 10:46 Enr: 10:46 Arv: 10:47 C/S: Cmp: 10:58
 Disposition: OFFICER NOTES Dispatcher: 4351 MIELKE, DEBBIE ANN
 License No: State: Make: Model: Style: Color:

(Unit Transaction)
 Date: 01/06/2009 Time: 10:51 Dispatcher: 4351 MIELKE, DEBBIE ANN
 Code: 28 & 29 CHECKS Mileage: 000000
 Plate: 63749 State: WI VIN: Make: Model: Style: Color:
 Name: JAFUTA, MICHAEL J
 DOB: 07/03/1954 Race: W Sex: M SSN: 000-00-0000 Patient No:
 OLN: State: WI
 Narrative: [VEHICLE] Plate: 63749 St: WI VIN: Make: Model: Style: Color: LicYear: 2009 LicType: MU

(Unit Transaction)
 Date: 01/06/2009 Time: 10:51 Dispatcher: 4351 MIELKE, DEBBIE ANN
 Code: 28 & 29 CHECKS Mileage: 000000
 Plate: 94288 State: WI VIN: Make: Model: Style: Color:
 Name: GEUS, JOHN A
 DOB: 12/21/1957 Race: W Sex: M SSN: 000-00-0000 Patient No:
 OLN: State: WI
 Narrative: [VEHICLE] Plate: 94288 St: WI VIN: Make: Model: Style: Color: LicYear: 0000 LicType: AP

P. 3 NAME: ATTORNEY OFFICE TEL: 414 302 8444 MAY-14-2009 THU 09:35

CAD Abstract Report
EVENT No. P/2009-00000453

(Unit Transaction)
 Date: 01/06/2009 Time: 10:52 Dispatcher: 4351 MIELKE, DEBBIE ANN
 Code: REGISTRATION CHECK Mileage: 000000
 Plate: 94288 State: WI VIN: Make: Model: Color: Style: Color:
 Narrative: [VEHICLE] Plate: 94288 St: WI VIN: Make: Model: Color: LicYear: 2009 LicType: AP

(Unit Transaction)
 Date: 01/06/2009 Time: 10:52 Dispatcher: 4351 MIELKE, DEBBIE ANN
 Code: REGISTRATION CHECK Mileage: 000000
 Plate: 535240 State: WI VIN: Make: Model: Color: Style: Color:
 Narrative: [VEHICLE] Plate: 535240 St: WI VIN: Make: Model: Color: LicYear: 2009 LicType: TL

(Unit Transaction)
 Date: 01/06/2009 Time: 10:55 Dispatcher: 4351 MIELKE, DEBBIE ANN
 Code: REGISTRATION CHECK Mileage: 000000
 Plate: 94288 State: WI VIN: Make: Model: Color: Style: Color:
 Narrative: [VEHICLE] Plate: 94288 St: WI VIN: Make: Model: Color: LicYear: 2009 LicType: AP

(Unit Transaction)
 Date: 01/06/2009 Time: 10:58 Dispatcher: 4351 MIELKE, DEBBIE ANN
 Code: UNIT NOTATION Mileage: 000000
 Narrative: NON-REPORTABLE

CAD Call Review

Program Options Help

CAD Unit w/Transactions

Event No. P/2009-0000453 Case No.

Date 01/06/2009 Day TUE Rcv 10:45 Dsp 10:46 Enr 10:46 Arr 10:47 C/S 00:00 Cmp 10:58

Unit No. 118 004351 004351 004351 000000 004351

Call Type ACCIDENT/PROPERTY Disposition OFFICER NOTES

Jurisdiction NEWB City Plate Make Color

Location 2075 S MOORLAND RD RUNDLE SPENCE

Date	Time	By	Type	Narrative	Mileage	Per	Veh
01/06/2009	10:51	4351	28 & 29 CHECKS	[VEHICLE] Plate: 94288 St WI VI...	.0	X	X
01/06/2009	10:52	4351	REGISTRATION CHE...	[VEHICLE] Plate: 94288 St WI VI...	.0		X
01/06/2009	10:52	4351	REGISTRATION CHE...	[VEHICLE] Plate: 535240 St WI V...	.0		X
01/06/2009	10:55	4351	REGISTRATION CHE...	[VEHICLE] Plate: 94288 St WI VI...	.0		X
01/06/2009	10:58	4351	UNIT NOTATION	NON-REPORTABLE	.0		

View Unit **Ent** **Esc**

Thursday, May 14, 2009 09:03 AM

Computer Assisted Dispatch System

Program Libraries Options Help View CAD EVENT Record

220021000000
 11/03/2009 11:11 AM 104543 104004625 Ed104645 A/104723 095 000000 Cmp105823 [E]

Jurisdiction [NEW/B] [v] Police Fire [23] EMS Other Dist. Force [N] [v]
 Location [2075 S MIDDRLAND RD] RUNDLE SPENCE
 Other Premise

Call Code [50P] [ACCIDENT/PROPERTY] Pity [2] [v] Origin [0] TELEPHONE
 Rpt/P [JAFUTA] First [MICHAEL] (M) [v] Phone [(414)987-6197]
 Last [JAFUTA] City [v] State [WI] Find [v]

Vehicle
 Plate State Type Make Model Style Color

Narrative [CITY OF WEST ALIS VAN EAST LOT]

Disposition [005] [OFFICER NOTES] Cmp Code [50P] [ACCIDENT/PROPERTY] Released By [E911/F11]

X:Ref [70000-00000000]

Location	Premise	History	Patrol	SDP
>	>	>	>	>

New Berlin Police Dept.
 16300 W. National Avenue
 New Berlin, WI 53151
 (262) 782-6640



OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

Sheryl L. Kuhary
Jeffrey J. Warchol
Jenna R. Merten
Assistant City Attorneys

July 16, 2009

Common Council
City of West Allis

RE: City Attorney's Report of Claims/Lawsuits

Dear Council Members:

The enclosed claims/lawsuits have been referred to this office in accordance with Section 3.05(8) of the Revised Municipal Code. This office has examined the facts of each claim/lawsuit and the applicable law. Our Opinion regarding liability is attached to each claim/lawsuit.

The following claims/lawsuits have been paid and placed on file:

Spoerl Trucking, Inc. (\$1,763.82)
Midwest Fiber Networks (\$21,528.55)

The following claims/lawsuits have been denied:

Kelly Loehe (\$1,194.97)
Tri City National Bank (\$891.00)

The following claim/lawsuit has been placed on file:

Taylor, Bean & Whitaker Mortgage Corp. v. Jose Mercado-Garcia & Maria Mercado, et al., Milw. County Case #08-CV-015904 (Foreclosure)

Respectfully submitted,



Jeffrey J. Warchol
Assistant City Attorney

JJW:da
Enclosures

cc: Thomas E. Mann, CVMIC