



Roll Call Number

Agenda Item Number

20

Date
January 11, 2010

Communication from Legal Department concerning settlements made by City Attorney, not exceeding \$5,000.00.

Moved by _____ to receive,
file and affirm settlements made by City Attorney.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

CITY ATTORNEY
Bruce E. Bergman

DEPUTY CITY ATTORNEYS
Mark Godwin
Lawrence R. McDowell
Kathleen Vanderpool

ASSISTANT CITY ATTORNEYS
Angela T. Althoff
Roger K. Brown
Ann M. DiDonato
David A. Ferree
Glenna K. Frank
Gary D. Goudelock, Jr.

Michael F. Kelley
Mary A. Laughlin
Vicky L. Long Hill
Steven C. Lussier
Katharine J. Massier
Carol J. Moser
Douglas P. Philip



January 11, 2010

**HONORABLE MAYOR AND MEMBERS OF
THE DES MOINES CITY COUNCIL**

Re: Report to Council

Pursuant to the authority and direction of Council authorizing the City Attorney to settle claims, lawsuits and workers compensation actions for a total sum not to exceed \$5,000, I submit to Council the following summary report of settlements made:

CRYSTAL JIMENEZ AND ECONOMIC AUTO SALES, \$3,100.00 for damage to claimant's vehicle resulting from incident of 9/4/09 when garbage collector pulled from stop sign on Scott Avenue at S.E. 18th Street and was hit by claimant.

BROWN'S DIRT WORK, \$920.00 for repairs to water stop box at 3937 E. 32nd Street; Public Works crews damaged stop box in July or August 2009 while preparing for a new sidewalk.

KIRK ROBINSON, \$500.00 for insurance deductible resulting from incident of 8/9/09 when Parks employee was responding to a fire alarm at the Armory Building and his personal vehicle was struck by a deer on S.E. 32nd Street.

JAMES RAMM, \$1,049.50 in payment of claim regarding water stop box that had been damaged during street widening on Kingman Blvd., damage was discovered in July 2009.

BRAD THOMPSON, \$1,469.97 for property damage to claimant's vehicle on 9/8/09 when claimant was following City truck on Forest Avenue at 30th Street and concrete debris fell onto vehicle.

GENARO MENDEZ, \$150.00 for repairs to fence resulting from incident of 9/6/09 when police officer attempted to scale a fence at 1345 7th Street while in pursuit of a suspect and the fence was damaged.

LOREN BISHOP, \$312.45 to replace a door that was damaged on 9/24/09 when police responded to a medical emergency at 6710 Star View Street.

TMC AUTO BODY, \$1,198.60 in payment of claim of 9/15/09 when street sweeper operator hit parked car at 1210 47th Street; **ENTERPRISE RENT A CAR**, \$119.84 for rental car expense.

MATTHEW RICE, \$40.00 to replace a window that was broken on 8/27/09 when Forestry crew was trimming trees in the alley behind 3935 16th Street.

KINMAN GLASS, \$208.24 in payment of claim regarding incident of 9/14/09 when debris fell from City truck on East 39th Street south of Euclid and broke claimant's windshield.

KATE GARST, \$73.14 in payment of claim of 10/2/09 when garbage collector disposed of claimant's personal container at 4102 River Oaks Drive.

JEREMY BROWNFIELD, \$180.36 in payment of claim regarding incident of 9/11/09 when claimant was pulling a trailer on S.W. 9th Street at Tuttle and the trailer hit a large pothole and was damaged.

BROWN'S DIRT WORKS, \$1,150.00 for repairs to water stop box that was damaged 9/1/09 at 2301 Des Moines Street when garbage collector placed toter was on the stop box.

STATE FARM INSURANCE, \$4,428.11 in payment of claim for property damage of 6/15/09 when claimant was stopped for car ahead at E. 14th Street and I-235 and was rear-ended by fire truck.

YVETTE MUHAMMAD, \$587.50 for property loss regarding claim of 8/11/09 when claimant's property at 3136 S.E. 8th Street was deemed a public nuisance and was cleaned; an appeal was filed and hearing officer ruled costs of cleanup should not have been charged and property is in compliance with City code.

RICHARD LEE FUNCKE, \$125.00 in payment of claim of 8/21/09 when claimant was arrested and his leather bag was damaged while in police custody.

BONNIE ANDRUS AND MATT ANDRUS, \$1,799.62 for property damage and bodily injury claim of 10/8/09 when claimant was following garbage truck on Park Avenue at S.E. 5th Street and the truck backed over the hood of the car.

TONI TRAN AND PAUL BRANCHCOMB, \$3,755.00 in payment of claim of incident of 8/11/09 when Community Development declared the property at 1807 Washington a public nuisance and had the property cleaned, including autos and a boat trailer that were taken; the owner never received proper notification that property was in violation.

THRASHER SERVICE CORP. AND JOHN AND KORY MERRYFIELD, \$2,950.00 for property damaged on 4/27/09 caused by an obstructed sanitary sewer at 511 Creston Avenue.

LISA MCCORMACK, A SINGLE PERSON, \$2,000.00 in payment of bodily injury claim of 8/22/09 when a fire department employee backed over claimant's foot while working at the Iowa State Fair under a contract between the City and Iowa State Fair on 8/22/09.

KENT LEHS, \$466.40 for property damage resulting from obstructed sewer on 9/5/09 at 4106 40th Street.

KAREN RUBIN, \$2,280.65 for plumber's calls, cleanup and property damage resulting from obstructed sanitary sewer on 10/9/09 at 3024 Holcomb Avenue.

LEASE PLAN RISK MANAGEMENT SERVICES, \$615.72 for repairs to claimant's vehicle; City employee backed into claimant's parked truck on 6/8/09 at 600 S.W. 7th Street.

CHINDA HOUANGVAN, \$847.31 in payment of vehicle damage claim when police employee backed into claimant's vehicle on 8/6/09 at 520 East 6th Street.

MIDAMERICAN ENERGY COMPANY, \$1,299.06 in payment of claim of 7/29/09 when Public Works crews damaged electrical conduit while replacing storm intake on East Grand Avenue at East Fourth Street.

MARLIN EDWARDS, \$38.00 to replace mailbox that was struck by street sweeper on 10/14/09 at 4410 46th Street.

DEBERRA KAYE PETERSEN, \$386.10 for plumber's call, cleaning products and replacement toilet resulting from obstructed sanitary sewer on 2/22/09 and 3/1/09 at 3209 Fleming Avenue.

DENT ELIMINATORS, \$106.00 for removal of asphalt from claimant's vehicle; Public Works crews were applying asphalt seal in alley between 3rd and 4th Streets and claimant's vehicle was parked in adjacent lot.

LAWYER, DAUGHERTY, PALMER & FLANSBURG TRUST ACCOUNT, \$1,165.76 in payment of jury award for punitive damages in lawsuit regarding incidents of 9/1/03 and 9/2/03 when police officers responded to a domestic call at 1602 29th Street and made an arrest at 1548 29th Street.

LAWYER, DAUGHERTY, PALMER & FLANSBURG TRUST ACCOUNT, \$4,662.75 in payment of jury award for punitive damages in lawsuit regarding incidents of 9/1/03 and 9/2/03 when police officers responded to a domestic call at 1602 29th Street and made an arrest at 1548 29th Street.

TMC AUTO BODY, \$467.72 for damages to claimant's vehicle on 11/3/09 when pick up arm of garbage truck struck the vehicle in the 1300 block of Morton Avenue; ENTERPRISE RENT A CAR, \$89.88 for rental car expense.

SCOTT HUNT AND UNITED PLUMBING, \$3,575.00 for repair of broken water line at 2915 Capital Avenue that was caused by collapsed street and discovered on 10/20/09.

KHALID ABDAR-RASHID, \$2,300.00 in payment of claim of 11/2/09 when City driver was pulling a trailer and struck claimant's vehicle while attempting a turn on ML King Blvd. at Carpenter Avenue.

RUTH WRIGHT, \$175.00 in payment of property damage claim of 8/27/09 when tree from right-of-way fell into claimant's house and yard at 2819 35th Street.

KENNISHA DUNIGAN, \$156.00 in payment of claim of 10/12/09 when claimant was arrested on a warrant, however, the warrant had been recalled; payment is for claimant's vehicle impound and a lip ring that was removed.

CONLEY ALLEN JR., \$43.31 for claim of lost property resulting from arrest of claimant on 9/17/09 at 2423 Ingersoll Avenue; police misplaced or lost visor flashlight.

WALT MCDOWELL, \$4,168.74 for property damaged on 10/18/09 when sanitary sewer was obstructed at 4301 Beavercrest Drive.

JEFFREY LAMAR, \$95.40 in payment of claim of 10/17/09 when Public Works crew replaced sidewalk at 3621 57th; concrete forms and rods were left in place overnight and claimant struck one and damaged a car tire.

FRISBEE PARK, \$40.00 for repair grass that was damaged by garbage collector on 10/16/09 at 500 North Valley Drive.

PAUL G. JOHNSON, \$641.91 in payment of property damage claim resulting from obstructed sanitary sewer from October 28, 2009 through November 5, 2009 at 4020 Lynner Drive.

BROWN'S DIRT WORKS, LLC, \$300.00 to repair water stop box that had been damaged when curb was replaced at 1311 Burlington Terrace; damage was discovered 11/18/09.

NEVITT METRO PROPERTIES, LLC, \$1,500.00 in payment of property damage claim regarding incident of 4/17/09 when garbage collector struck claimant's garage at 1820 Pleasant Street.

KINMAN GLASS, \$74.12 for repair to claimant's window resulting from incident of 11/24/09 when garbage collector lost control of toter and it broke claimant's window; claimant's garbage is collected by hand rather than placed at curb.

KINMAN GLASS, \$208.75 in payment of claim of 10/22/09 when rock was thrown from recycle truck and broke windshield on S.E. 5th Street at Leland.

HIDAJET SULJIC, \$251.60 for property damage resulting from obstructed sanitary sewer on 11/16/09 at 4115 40th Street.

ROBERT AND VIRGINIA WEST, \$4,341.79 in payment of claim of 11/8/09 for property damage, plumber's call and cleanup resulting from obstructed sanitary sewer at 5404 S.W. 16th Street.

MISTY ROBERTSON, \$500.00 in payment of claim of 11/12/09 when City employee backed into claimant's parked vehicle on East 24th Street at Hull Avenue.

TROY CAVIL AND HIS ATTORNEY, CHRISTOPHER SPAULDING, \$500.00 in payment of workers compensation claim regarding incident of 9/20/07 when Public Works employee slipped off step when getting out of a truck and injured his knee.

DES MOINES WATER WORKS, \$4,000.00 in payment of claim for additional construction costs during the summer of 2009 when Water Works had to redesign construction and had delays because the City failed to inform them of the existence of a culvert at Second Avenue and Park Street and they had to excavate and install a new water line.

TMC AUTO BODY, \$955.50 for repairs to claimant's vehicle resulting from incident of 12/10/09 when plow driver struck parked vehicle at 4113 Clinton Avenue.

ALYCIA PETERSON, \$221.00 in payment of subrogation claim resulting of incident in June of 2006 when police officer was involved in an accident in which the other driver was at fault.

KIRBY MUSIC, \$200.00 for grass seed and labor to re-grade dirt resulting from incident of 12/11/09 when City plow pushed snow into claimant's yard and into the back of his house while plowing snow in the alley adjacent to 2917 East Grand Avenue.

KINMAN GLASS, \$214.90 for repairs to claimant's windshield that was damaged on 12/12/09 when plow truck threw a rock or frozen salt into windshield while driving on Army Post Road.

YVONNE VICTORIA, \$30.00 for damage to mailbox that was damaged by snow plow on 12/9/09 at 3930 East 30th Street.

M.V.P. FENCE CO., \$121.00 for repairs to chain link fence that was damaged by garbage toter on October 14, 2009 at 3005 Indianapolis Avenue.

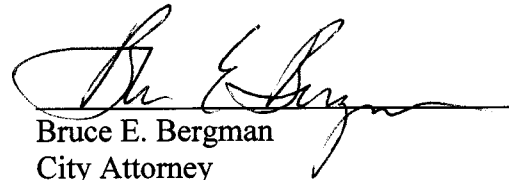
TMC AUTO BODY, \$508.29 for damages to vehicle resulting from incident of 12/27/09 when plow driver struck parked car at 3028 Tiffin Avenue.

ARTHUR COVERDELL, \$30.00 for property damage claim of 12/10/09 when plow driver struck claimant's mailbox at 3929 East 30th Street.

TMC AUTO BODY, \$341.83 for repairs to claimant's vehicle that was struck by a plow driver on 12/27/09.

TMC AUTO BODY, \$775.18 in payment of claim of 12/25/09 when plow driver struck parked car on East 11th Street at Walker Avenue.

LARRY QUINN, \$1,400.00 for property damage resulting from incident of 12/26/09 when plow driver struck claimant's parked truck at 2730 Dosh Road.


Bruce E. Bergman
City Attorney