

★ Roll Call Number

Agenda Item Number

28

Date February 9, 2009

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				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLISSIS				
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

February 9, 2009

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:



LEGAL DEPARTMENT
CITY HALL
400 ROBERT D. RAY DRIVE
DES MOINES, IA 50309-1891
(515) 283-4130 Administration
(515) 283-4564 Litigation
FAX (515) 237-1643 Administration
(515) 237-1748 Litigation

ALL-AMERICA CITY
1949, 1976, 1981
2003

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. GOUDELICK, Jr.

MICHAEL F. KELLEY

MARY A. LAUGHLIN

VICKY L. LONG HILL

STEVEN C. LUSSIER

KATHARINE J. MASSIER

CAROL J. MOSER

DOUGLAS P. PHILIPH

ENTERPRISE RENT A CAR, \$524.10 for rental car expense associated with claim of 9/18/08 when police officer exited his patrol car to chase a suspect and left the door open and the car in gear and it struck a parked car and then this claimant's car at Ninth Avenue at Mary Street.

SANDRA NEFF, \$300.00 for repairs to chain link fence resulting from incident of 10/9/08 when garbage collector pickup arm damaged fence at 1920 Pleasant Street.

KIPTON DOLDER, \$1,672.16 in payment of claim of 9/29/08 when City employee struck a parked car at the Forestry Shop.

DALE BINGAMAN, \$4,450.00 in payment of claim of 10/20/08 when police officer struck car that was stopped at Douglas Avenue and 35th Street; ENTERPRISE RENT-A-CAR, \$379.48 for rental car expense.

TMC Auto Body, \$86.00 for removal of asphalt from claimant's vehicle resulting from incident of 5/19/08 when claimant was traveling on County Line Road where City crews had put asphalt; ENTERPRISE RENT-A-CAR, \$29.96 for rental car expense.

JOANNE ROTH, \$200.00 for repairs to brick pillar that was struck by garbage collector on 5/16/08 at 5105 Waterbury Circle.

JUNE HYATT AND CAPITAL SITE WORK AND DESIGN, \$5,000.00 for repairs to claimant's concrete wall and staircase that Public Works crews damaged on 7/24/08 while replacing sidewalk at 1622 Mondamin.

RALPH SMITH, \$150.00 for damage to City employee's tool box and jack stand on 6/13/08 while they were being moved from the City garage to the Airport in anticipating of flooding.

JEREMY HUFFMAN AND GRAHAM BODY SHOP, \$3,263.78 in payment of claim of 10/3/08 when Parks employee rear-ended claimant on Fleur Drive at Gray's Lake; JEREMY AND JENNIFER HUFFMAN, INDIVIDUALLY AND AS HUSBAND AND WIFE, \$625.00 to settle bodily injury and car rental claims; GRAHAM BODY SHOP, \$313.91 for additional damages to undercarriage spare tire rack and hoist on vehicle that were not discovered until repairs began.

ANTHONY M. PALLADINO, JR., \$1,000.00 for repairs to private sewer line that was believed to have been cracked; it was discovered on 10/01/08 there was a crack in the City's sewer line instead of the private line at 7108 S.W. 17th Street.

STATE FARM INSURANCE AS SUBROGEE OF A. AWNGOAM, \$1,287.92 for repairs to claimant's vehicle resulting from incident of 8/14/08 when City employee backed into claimant on 34th Street at Lincoln Avenue.

GARY GALINSKY, \$408.26 for repairs of gas meter that was damaged by City crews in a public nuisance clean up on 8/28/07 at 3608 Vandalia Road.

KARL CHEVROLET, \$1,065.27 for repairs to a leased vehicle that police were using; police officer was in Fort Dodge, Iowa, on police business and struck a pole.

DAVE BARNES, \$2,000.00 in payment of claim of 10/20/08 when garbage truck struck claimant's parked car in the 2700 block of Arnold Road.

KEVIN STRAWN and TMC AUTO BODY, \$681.37 for repairs to City employee's tool box that was damaged on 6/13/08 when it was moved from the City garage to the Airport in anticipation of flooding.

JOHNNY BOOTH, \$3,000.00 as settlement of claim of 6/13/08 when tool boxes were damaged while being moved from the City garage to the Airport in anticipation of flooding.

OLEETA CLYCE AND DAVID SHINKLE, \$3,000.00 for settlement of bodily injury claim resulting from incident of 6/20/07 when claimant injured her foot and knee on loose carpet on the stairs leading to the waterslide at the Nahas Pool.

AMY SHERADEN, \$187.89 for plumber's call as a result of sewer backup caused by obstruction of roots on 10/6/08 at 3129 S.W. 41th Street.

JAMES AND KELLY VINCENT, \$1,021.11 in payment of claim for property damage on 9/14/08 when sewer was obstructed at 708 Trowbridge.

ASSOCIATED ENGINEERING COMPANY OF IOWA, INC., \$100.00 to have a property stake reinstalled at 432 Pioneer Road resulting from an incident in 2005 when the Public Works crew inadvertently removed a property stake while removing a tree that was partially on right-of-way and partially on 432 Pioneer Road.

RON O'NEAL, \$2,850.93 in payment of a worker's compensation claim of 1/10/08 when Public Works employee was injured while shoveling snow at 1900 Frances.

JOHN LUMLEY AND HIS ATTORNEY ELIZABETH FLANSBURG, \$3,500.00 for settlement of a lawsuit regarding incident of 05/31/06 when Mr. Lumley stepped into a hole at a bus stop at S.E. 5th and McKinley Avenue.

MEGAN BECK, \$389.63 in payment of claim of 12/3/08 when police officer turned in front of a vehicle on McKinley at S.E. 14th Street because he could not see the vehicle because it did not have its light on; debris from the accident struck claimant's vehicle.

DES MOINES-WINTERSET MEMORIALS, \$275.00 for repairs to vases that were damaged on 2/1/08 when cemetery crew was digging a grave at the Laurel Hill Cemetery.

MAUREEN AUSTIN BUTTS, \$4,846.00 in payment of property damage resulting from obstructed sewer on 2/15/08 and 4/10/08 at 1511 Hutton.

ULTIMATE AUTO WASH, \$750.00 in payment of claim of 11/19/08 when Animal Control Officer disregarded the 84" clearance sign at the car wash and damaged automatic car wash equipment with vehicle at 4411 S.E. 14th Street.

KATHY A. MILLER, \$226.70 for plumber's call and labor resulting from obstructed sanitary sewer on 10/21/08 at 2900 50th Street.

MARJORIE AGAN, \$493.00 in payment of property damage claim of 4/11/08 when sanitary sewer was obstructed at 1269 East 37th Court.

WATTS VAULT AND MONUMENT COMPANY, \$375.00 in payment of claim for damaged memorial stone base at the Glendale Cemetery that was discovered on 5/14/08.

JOE FINDLAY, \$253.75 for damage to claimant's vehicle on 10/20/08 when claimant was following Park's Department truck on I-235 near Keo Way and a ladder from the truck.

PENNY GALVAN AND ROBERT CLAREY, JR., \$220.00 for property taken from 2026 Maple Street during property cleanup on 12/11/08; Community Development Department gave incorrect address for cleanup.

TMC AUTO BODY, \$1,403.78 in payment of claim of 12/11/08 when City employee backed into co-worker's parked vehicle at 1515 S.E. 14th Street; ENTERPRISE RENT A CAR, \$289.66 for rental car expenses.

GENERO MENDEZ, \$786.70 for repairs to claimant's house and yard at 1345 7th Avenue resulting from police chase of 7/21/08.

DES MOINES WATER WORKS, \$780.00 for repairs to water stop box at 2407 East Grand Avenue that was discovered on 10/27/08 to have been buried; curbs were replaced by City contractor in 1988 and water stop box was buried at that time.

CHRIS AVERY, \$325.00 for replacement of basketball hoop that was struck by garbage collector on 11/13/08 at 222 Scandia Circle.

PAUL MOSER, \$500.00 in payment of insurance deductible resulting from incident of 12/24/08 when snow plow hit parked car at 5600 Harwood Drive; PROGRESSIVE INSURANCE COMPANY, \$1,236.51 for subrogation claim for property damage.

KINMAN GLASS, \$326.47 in payment of claim of 10/14/08 when rock or other object from City truck hit claimant's windshield while pulling from the Hartford-Harriet Street dump.

MICHAEL STROUD, \$2,281.90 for damages to claimant's vehicle resulting from incident of 12/22/08 when City employee rear-ended co-worker's vehicle in the 2100 block of Scott Street.

KINMAN GLASS, \$644.52 to replace broken windshield that was damaged on 9/30/08 when claimant was on Highway 5 Bypass and a rock was thrown from City truck into claimant's vehicle.

DARRYL BROWDER, \$1,000.00 in payment of claim of 6/1/07 when police took claimant's cameras during a search regarding possible sale of drugs at 1925 10th Street; cameras were never returned.

DES MOINES WATER WORKS, \$855.24 for repairs to water stop box at 1815 11th Street that was discovered damaged on 10/13/08; damage was done when City repaired sidewalk years ago.

RUTH HINDAL, \$2,754.84 for property damaged caused by obstructed sanitary sewer on 12/1/08 at 1536 Hull Avenue.

WENDI HART, \$47.70 for repair to claimant's windshield resulting from incident of 12/16/08 when sander truck threw debris while traveling on Indianola Road south of Army Post Road.

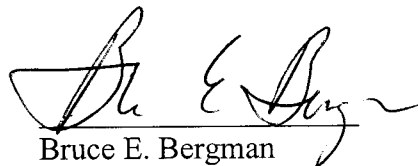
DARREN DEBING, \$200.00 for repairs to a parked trailer that was struck by a snowplow on 1/14/09 at 4238 East Clinton Avenue.

CHRIS ROGERS, \$799.42 in payment of claim of 3/26/08 when garbage truck pickup arm struck parked car on East 35th Street and Eastwood Drive.

TIM HOWSER, \$1,700.00 in payment of claim of 1/2/09 when City employee's parked vehicle was struck by co-worker driving City vehicle on S.E. 4th Street.

KAREN PETERS, \$1,177.90 for repairs to claimant's vehicle resulting from incident of 1/7/09 when sander truck sprayed side of claimant's vehicle with sand and rocks while traveling on Army Post at Indianola Road.

RAYMOND GUZMAN, \$1,086.64 in payment of claim of 1/7/09 when claimant was traveling on Highway 65 and Highway 5 overpass and a City sander truck sprayed vehicle with sand and rocks and damaged claimant's vehicle.


Bruce E. Bergman
City Attorney