

★ **Roll Call Number**

**Agenda Item Number**

17

.....  
**Date** March 22, 2010  
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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	

**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.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
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  
Gienna K. Frank  
Gary D. Goudelock, Jr.

Michael F. Kelley  
Vicky L. Long Hill  
Steven C. Lussier  
Katharine J. Massier  
Carol J. Moser  
Douglas P. Philiph



March 22, 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:

**BROWN'S DIRT WORK**, \$1,272.00 in payment of claim regarding incident of 1/5/10 when it was discovered that claimant's water stop box was leaking; Public Works crews previously removed old sidewalk.

**KIM GILMORE**, \$764.90 for repairs to claimant's vehicle that was struck by plow driver on 12/10/09 at 4141 East Madison.

**OCTAVIO SARMIENTO**, \$1,164.21 in payment of claim of 12/25/09 when claimant's parked car was struck by plow driver on Grandview at North Union Street.

**TMC AUTO BODY**, \$894.35 for repairs to vehicle that was struck by plow driver on 12/27/09 at 4805 Harwood Drive.

**TMC AUTO BODY**, \$1,281.03 for repairs to vehicle caused when plow driver struck parked car on 12/09/09 in the 1600 block of 8<sup>th</sup> Street; **OWEN CRIST AUTO BODY**, \$260.70 for tow and storage charges.

**JOSH NEWTON**, \$828.30 in payment of property damage claim of 1/4/10 when plow driver struck parked van at 2521 36<sup>th</sup> Street.

**DES MOINES WATER WORKS**, \$1,177.00 for repairs to water stop box that Public Works crews damaged while replacing curbs at 1315 Jefferson Avenue; damage was discovered on 10/9/09.

**JOHN AND CINDY GAY**, \$100.00 in payment of property damage claim of 12/11/09 when plow struck garage roof in alley behind 704 Buchanan Street.

YEN HOANG, \$3,431.09 for repairs to claimant's vehicle resulting from incident of 12/26/09 when road grader struck vehicle on East 53<sup>rd</sup> Street.

ROBERT M. STEVENSON, \$972.22 for repairs to vehicle that plow driver struck on 12/27/09 at 1906 Des Moines Street; ENTERPRISE RENT A CAR, \$246.39 for rental car expense associated with the claim.

ENTERPRISE RENT A CAR, \$109.86 for rental car expense resulting from incident on 12/27/09 when plow driver struck parked car.

DONNA AND BART BUCKLIN, \$1,500.00 in payment of property damage claim of 12/9/09 when city plow struck claimant's vehicle at 2609 Boyd.

KINMAN GLASS, \$367.97 for property damage claim of 1/5/10 when debris fell from garbage truck on East University Avenue at East 16<sup>th</sup> Street and struck claimant's vehicle.

TMC AUTO BODY, \$1,497.00 for repairs to van that was struck by plow driver on 12/31/09 on MLK at Clarkson; ENTERPRISE RENT-A-CAR, \$582.75 for rental car expense.

BROWN'S DIRT WORKS, \$800.00 in payment of claim for damages discovered 12/18/09 when water stop box was leaking due to damage caused when curbs were replaced at 1814 East 24<sup>th</sup> Street.

BRYANT EGENBERGER, \$30.00 for property damage claim of 1/4/10 when plow struck claimant's mailbox at 4520 S.E. 34<sup>th</sup> Street.

JOSE BERBER, \$1,009.20 for repairs to claimant's vehicle resulting from incident of 1/1/10 when police officer backed from parking spot at Quik Trip, 1501 East Grand Avenue, and struck vehicle.

JOYCE KIMZE, \$57.96 in payment of claim for lost property on 11/23/09 when claimant's daughter was arrested and cell phone and ID were lost.

DANIEL KNIGHT, \$289.37 in payment of claim of 1/12/10 when plow truck struck claimant's bicycle that was in a bike rack at 214 4<sup>th</sup> Street.

TMC AUTO BODY, \$1,799.06 for repairs to vehicle resulting from incident of 1/7/10 when plow driver backed into parked car at 26<sup>th</sup> Street and Center Avenue; FRANK HURLEY, \$87.64 for additional mechanical work on the vehicle; BUDGET RENT A CAR, \$633.98 for rental car expense.

ARDELLE E. DUNLAP, \$750.00 in payment of claim of 12/25/09 when snow plow hit parked car at 1122 18<sup>th</sup> Street.

STANLEY JOHNSON, \$30.00 to replace mailbox that plow hit on 1/25/10 at 3217 South Union.

MATTHEW JACOB HOLMES, \$989.58 for repairs to claimant's vehicle that was damaged on 12/31/09 when police officer struck car at Franklin and Second Avenue.

VERNON AND CHRISTINE MCCLAIN, \$635.76 in payment of claim of 1/4/10 when employee rear-ended vehicle on Ovid Avenue at Cornell Street.

MARLANDO CASON, \$519.61 in payment of claim of 1/7/10 when snowplow struck claimant's parked vehicle at 26<sup>th</sup> Street and Kingman Blvd.

VICTOR CAMACHO, 1,853.43 for repairs to claimant's vehicle that was struck by plow driver on 1/8/10 at 1906 Burson Street.

KELLY REED, \$1,663.59 for vehicle damages resulting from claim of 1/26/10 when plow driver struck parked vehicle at 3307 Wright Street.

BROWN'S DIRT WORKS, \$3,710.00 to replace damaged water heater and furnace resulting from obstructed sanitary sewer on 1/29/10 at 2202 East 14<sup>th</sup> Street.

BROWN'S DIRT WORKS, \$600.00 to replace water stop box that was damaged by City crews while replacing curb at 1707 46<sup>th</sup> Street.

TMC AUTO BODY, \$1,473.30 for repairs to claimant's vehicle resulting from incident on 1/20/10 when City employee struck vehicle while turning from 17<sup>th</sup> Street onto Locust Street; ENTERPRISE RENT A CAR, \$123.18 for rental car expense.

RALPH WILLIS, JR., \$891.00 in payment of property damage claim of 12/8/09 when City driver struck parked car in alley at 925 High Street.

BENJAMIN SOUTH, \$75.00 in payment of claim for damaged gutter that snow plow driver hit on 2/2/10 at 1536 Thompson Avenue.

JOEL AND PATTI THOMAS, \$654.20 for repairs to vehicle that was struck by plow driver on 1/26/10 in the 1500 block of East Sheridan Avenue.

LINK ASSOCIATES, \$648.95 in payment of property damage claim of 1/25/10 when City plow slid into claimant in the 700 block of Foster Drive.

CARLA HARRIS, \$1,500.00 in payment of claim of 1/7/10 when plow driver slid into claimant's vehicle in the 1600 block of 22<sup>nd</sup> Street.

CINDY JENNINGS, \$1,800.00 in payment of property damage claim of 2/9/10 when plow driver struck parked car at 4221 S.E. 13<sup>th</sup> Street; ENTERPRISE RENT A CAR, \$531.68 for rental car expenses.

KRISTI QUINONES AND MAACO COLLISION REPAIR, \$1,534.52 for repairs to claimant's vehicle resulting from incident on 12/27/09 when plow driver struck parked car on Clark Avenue at 63<sup>rd</sup> Street; MAACO COLLISION REPAIR, \$332.37 for additional repairs to the vehicle.

KINMAN GLASS, \$196.85 for repairs to claimant's windshield resulting from incident of 1/26/10 when rock or sand was thrown from City truck into windshield on Vandalia Road.

TMC AUTO BODY, \$316.50 in payment of property damage claim of 12/28/09 when snow was pushed off overpass at 31<sup>st</sup> or 42<sup>nd</sup> Street by plow onto I-235 and damaged vehicle.

ERICK MONTESINOS, \$1,637.20 for repairs to claimant's vehicle resulting from incident on 2/9/10 when plow driver struck parked car at 2317 Lyon Street.

DENISE AND BOB GILBERT, \$1,500.00 in payment of claim of 2/9/10 when plow driver struck parked car at 2816 Lyon Street.

GREENSTAR RECYCLING, \$1,372.70 in payment of claim of 1/11/10 when recycle truck driver backed into garage door at recycling center at 2742 East Market Street.

HISTORIC EAST VILLAGE, INC., \$1,393.00 for repairs to a bus bench that was damaged on 1/9/10 by a crew loading snow at the southwest corner of Third and Locust Streets.

BRENDA WALTE, \$19.90 in payment of claim of 1/28/10 or 1/29/10 when claimant was following a plow truck on Hubbell Avenue and tire chain broke and damaged claimant's tire.

EVA MAE PEACOCK, \$183.20 in payment of property damage claim resulting from obstructed sanitary sewer on 12/25/09 and 1/5/10 at 128 East 29<sup>th</sup> Street.

DALE EDWARD FITZGERALD, \$5,000.00 in settlement of claim for false arrest on 2/27/09 when police arrested claimant instead of arresting Dale Joseph Fitzgerald.

TMC AUTO BODY, \$2,190.71 for repairs to vehicle resulting from incident of 2/15/10 when plow driver backed into vehicle on Indianola Avenue at Payton Street; ENTERPRISE RENT A CAR, \$216.43 for rental car expenses; STEVEN LUNDBERG, \$100.00 for additional repairs to vehicle.

SANDRA WILKINS-CARTER, \$3,000.00 in settlement of lawsuit regarding incident of 3/6/06 when claimant alleges she was wrongfully arrested and that she was injured.

TMC AUTO BODY, \$1,134.38 for repairs to claimant's vehicle resulting from incident on 2/9/10 when plow driver backed into claimant's pickup on Hickman at 38<sup>th</sup> Street; ENTERPRISE RENT A CAR, \$119.84 for rental car expense.

TMC AUTO BODY, \$955.90 for damaged to claimant's vehicle that was struck by plow driver on 2/15/10 at 4715 Beaver Crest Drive.

BERGER LAW FIRM, \$5,000.00 as settlement of personal injury claim of 8/17/08 when claimant's son fell through a gap in the railing of a bridge at Ewing Park Racetrack.

IGOR SPANOVICH, \$2,541.49 in payment of property damage claim of 2/17/10 when road grader backed into claimant on Cottage Grove at 42<sup>nd</sup> Street.

DEB THEELER, \$548.59 to repair vehicle resulting from incident of 2/15/10 when police officer rear-ended claimant's stopped car on University Avenue at ML King Blvd.

TMC AUTO BODY, \$213.86 in payment of claim of 2/16/10 when plow driver struck claimant's parked car in the 2300 block of University Avenue.

WES PENNY, \$75.00 in payment of property damage claim of 2/16/10 when a plow backed into claimant's fence and mailbox at 109 East 28<sup>th</sup> Street.

PHH VEHICLE MANAGEMENT SERVICES, LLC, \$5,000.00 in payment of property damage claim of 1/14/10 when City driver struck claimant's vehicle while attempting a turn from Robert D. Ray Drive onto East 6<sup>th</sup> Street.

CAROL AND LARRY WEST, \$300.00 for claimant's collision deductible resulting from incident of 2/9/10 when plow driver struck claimant's vehicle when changing lanes on East Euclid east of East 14<sup>th</sup> Street.

FOREMOST INSURANCE AS SUBROGEE OF MIKE EDMISTON, \$586.07 for damages to claimant's fence resulting from incident of 2/16/10 when plow truck got stuck at 3305 Fourth Street and another City truck pulled it free and claimant's fence was hit.

ALLEN LAMB, \$250.00 in payment of claim of 2/20/10 or 2/21/10 when plow truck had dragged a tree limb down the alley at 1315 East Washington and struck claimant's garage.

KIMBERLY ERICKSON, \$1,371.07 in payment of claim of 12/25/09 when plow driver struck parked car on East 11<sup>th</sup> Street at Walker Avenue.

MIDAMERICAN ENERGY COMPANY, \$2,517.68 in payment of claim of 12/26/09 when plow driver struck utility pole at 36<sup>th</sup> Place and Rose Hedge.

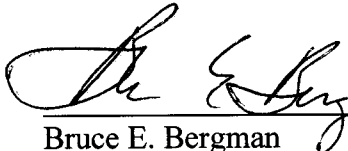
MIDAMERICAN ENERGY COMPANY, \$538.63 for damages to gas line on 10/7/09 when Parks employees were dismantling a building at 1231 Thomas Beck Road.

TMC AUTO BODY, \$716.32 for repairs to employee's vehicle resulting from incident of 1/21/10 when City employee backed into co-worker's vehicle in the Public Works parking lot.

LANH BUI, \$1,293.47 for repairs to claimant's vehicle resulting from incident of 12/31/09 when garbage collector struck parked car on S.E. 6<sup>th</sup> Street at Porter.

MIDAMERICAN ENERGY COMPANY, \$1,249.78 in payment of claim of 12/7/09 when plow driver struck utility pole at 505 Country Club Blvd.

TMC AUTO BODY, \$1,451.00 for damages to claimant's vehicle when City WRA driver rear-ended car on East University at Hubbell on 2/3/10.

  
 Bruce E. Bergman  
 City Attorney