

★ Roll Call Number

Agenda Item Number

36

Date June 8, 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				
VLASSIS				
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  
Gienna 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



June 8, 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:

TMC AUTO BODY, \$551.81 to repair damages to claimant's vehicle that was damaged on 1/25/09 when plow driver struck parked car at 1441 41<sup>st</sup> Place.

STANLEY COUSINS, \$897.55 in payment of claim of 1/25/09 when plow driver slid through a stop sign at Franklin and 47<sup>th</sup> Street and was hit by claimant who had right of way.

STEVEN PETTIS, \$4,048.00 for property damage regarding claim of 12/2/08 when sanitary sewer was obstructed at 1444 Richmond Avenue.

MIDAMERICAN ENERGY COMPANY, \$321.50 for damages to utility pole resulting from claim of 10/27/08 when police officer was on Hickman Avenue with lights and sirens activated and was struck by another driver at 30<sup>th</sup> Street; after the impact the officer backed into a utility pole.

JOHN MALONE, \$1,030.19 for repairs to claimant's vehicle resulting from incident of 12/15/08 when police officer rear-ended the car on Third Street at Court Avenue.

COREY HARVEY, 1,126.97 in payment of claim of 1/14/09 when snowplow's blade struck claimant's parked car at 3833 Lindlavista Way.

JANIS BUCHHOLZ AND TMC AUTO BODY, \$1,982.15 for repairs to claimant's vehicle that was parked at 7506 SW 13<sup>th</sup> Street on 1/25/09 and was struck by a City snowplow; ENTERPRISE RENT A CAR, \$432.86 for rental car expense.

JACK NORTHWAY, \$4,408.36 in payment of claim of 12/31/08 when Fire Department driver rear-ended vehicle at East 14<sup>th</sup> Street and University Avenue.

JODEE LYNN WEDGEWORTH, \$1,135.37 in payment of claim of 1/3/09 when sander truck struck claimant's parked car at 1212 Shawnee.

DAWN M. STEWART, \$1,771.50 for property damage resulting from obstructed sewer on 11/28/08 at 1004 Euclid.

JILL TYLER, \$547.40 in payment of property damage claim of 12/29/08 when City plow driver struck claimant's vehicle at the intersection of 62<sup>nd</sup> and Muskogee.

KINMAN GLASS, \$57.00 to repair claimant's windshield resulting from incident of 1/27/09 when sander truck threw gravel into claimant's vehicle at East Euclid and East 14<sup>th</sup> Street.

MIDAMERICAN ENERGY COMPANY, \$1,734.00 in payment of claim of 12/19/08 when pick up arm of garbage truck caught guide wire and damaged the wire and metal supports on 33<sup>rd</sup> Street at Mondamin Avenue.

KAREN PETERS, \$430.05 for repairs of vehicle regarding claim 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; we previously paid \$1,177.90 for repairs for a total of \$1,607.95 for this claim.

ELVERSON, VASEY & PETERSEN, LLP TRUST FUND, \$1,625.00 in settlement of lawsuit regarding property damage related to a sewer backup on 2/10/07 at 102 S.W. 51<sup>st</sup> Street.

BAJRO KARIC, \$5,000.00 as an initial payment of claim regarding incident of 2/13/09 when City truck struck claimant's vehicle while attempting a U-turn in the 4200 block of Hickman; an additional payment will be requested at a council meeting.

NATHANIEL LAIR AND CHARLES GABUS FORD, \$2,538.71 in payment of claim of 1/25/09 when plow driver struck parked car in the 3700 block of Rollins Avenue.

JENNIFER COGDILL, \$1,161.27 for property damage resulting from incident of 2/14/09 when plow driver struck parked vehicle at 810 Buchanan Street.

ETHELLENE HEADSPEATH, \$137.80 in payment of claim of 2/22/09 when fire truck driver backed into claimant's vehicle at 830 25<sup>th</sup> Street and broke left rear window.

TMC AUTO BODY, \$1,961.97 in payment of claim of 1/3/09 when City driver was applying salt and sand and slid into claimant's parked car in the 600 block of 18<sup>th</sup> Street

GEORGE SIMBRO, \$1,000.00 for damage to City employee's tool box on 6/13/08 when it was moved from the City garage to the Airport in anticipation of flooding.

CHARLES INGLE, \$76.00 in payment of claim in November 2008 when water was disconnected at 2502 and 2504 High Street to allow a new sewer to be installed.

MIKE AND GINNIE BELL, \$2,528.00 for property damage at 4113 East Boyd Street on 12/19/08 when sewer was obstructed with roots and caused backup.

TROY AHN, \$3,900.00 as payment for property damage claim of 1/29/09 when police officer pulled from stop sign at S.E. 18<sup>th</sup> Street and Scott Avenue with emergency lights activated and struck claimant's vehicle.

M.V.P. Fence, \$150.60 for repairs to claimant's fence resulting from incident of 12/27/08 when garbage truck slid on ice into fence at 4125 River Oaks Drive.

JAMES R. SCHNEIDER, \$1,557.45 in payment of claim of 2/6/09 when City driver pulled from parking area on Forest Avenue near 24<sup>th</sup> Street and struck claimant's vehicle; ENTERPRISE RENT A CAR, \$306.61 for rental car expense.

JOSEPH MADONIA, \$30.00 to replace mailbox that was damaged by plow truck at 1727 Casady Drive.

DAVID HEGGEN and PAM CARMICHAEL, \$786.00 in payment of claim regarding incident of 12/30/08 when pick up arm of garbage truck struck garage and fence at 1504 Thompson Avenue.

JOHN ERICKSON, \$30.00 to replace mailbox that was struck by garbage truck on 1/2/09 at 714 S.E. Diehl Street.

JOE AND MIA COUNTRYMAN, \$1,200.00 in payment of claim for damages discovered in the summer of 2008; claimant had several sewer backups at 2211 High Street due to work done in front of his house.

KINMAN GLASS, \$44.52 for repair to claimant's windshield as a result of incident on 3/10/09 when plow threw rocks into claimant's path on S.E Hartford near S.E. 5<sup>th</sup> Street.

CHARMAINE CABELIN, \$120.32 in payment of claim of 3/5/09 when garbage collector struck telephone line with pick-up arm which damaged claimant's house trim at 1132 Wade Street.

M.V.P. FENCE, \$519.50 for repairs to fence that was damaged on 3/2/09 at 3504 and 3524 56<sup>th</sup> Street when garbage collector struck a tree that fell into the fence.

ROBERT JAEGER AND HIS ATTORNEY, ROBERT BURNETT, JR., \$3,000.00 as settlement of lawsuit regarding incident of 7/19/08 when claimant was injured at the 4<sup>th</sup> and Grand Parking Ramp while entering an elevator that was not level and caused his wheelchair to topple.

MICHAEL HATFIELD, \$1,407.34 in payment of claim of 3/17/09 when City driver backed into claimant's vehicle at Indianola Avenue at S.E. 14<sup>th</sup> Street.

GREGERY L. OERTWIG, \$5,000.00 in payment of property damage claim of 1/29/09 when sanitary sewer was obstructed with roots at 2700 East 38<sup>th</sup> Court.

LEROY CORBIN, SR., \$3,657.17 in payment of property damage claim of 1/29/09 when sanitary sewer was obstructed at 2614 East 38<sup>th</sup> Court and caused damage to water heater and furnace.

KINMAN GLASS, \$225.52 in payment of claim regarding incident in December 2007 when claimant contends that plow truck threw rocks into vehicle that was parked in front of his home at 135 East Watrous and caused damage to the windshield.

DES MOINES WATER WORKS, \$353.96 for damages caused on 2/5/09 when City employee backed over fire hydrant at S.W. 12<sup>th</sup> and Davis Streets.

STATE FARM INSURANCE AS SUBROGEE OF RICHARD HURD, \$541.86 in payment of claim of 12/8/07 when City plow driver struck claimant at S.E. 14<sup>th</sup> Street at Lacona.

STEVEN ALCORN, \$2,661.00 in payment of property damage claim of 3/7/09 when sanitary sewer was obstructed with roots at 4409 Caulder Avenue.

BERNICE BROWN, \$1,751.16 for plumber's call, clean-up and damage from incident of 3/9/09 when sanitary sewer was obstructed at 3138 S.W. 13<sup>th</sup> Street.

SOUDACHANH MANIVONG, \$1,354.00 in payment of claim of 1/14/09 for property damage caused when plow driver struck parked car on S.E. 20<sup>th</sup> Street.

CENTRAL IOWA SHELTER AND SERVICES, \$100.00 for damaged caused on 2/14/09 when plow driver struck concrete steps at 205 15<sup>th</sup> Street.

ANDREW SUSANIN AND WILLIS AUTO CAMPUS, \$2,164.51 for damages to vehicle resulting from incident of 3/19/09 when claimant was driving on the Grand Avenue bridge that connects Grand Avenue and Fleur Drive and he hit a metal finger expansion joint; ANDREW SUSANIN, \$86.92 for tow bill.

BILL GRAY, \$314.65 for property damage and plumber's call resulting from incident of 4/7/09 when City crew was using a vactor truck to clean sewer line which caused a backup at 4617 Franklin Avenue.

LINDA AND MATT OVERTON, \$820.00 for damage to house siding when vactor truck struck phone lines on 2/10/09 at 3421 East Shawnee Avenue.

HAYDEN GEORGE AND TMC AUTO BODY, \$3,004.40 in payment of claim of 4/30/09 when Public Works employee backed into claimant's vehicle on South Union at Kirkwood; ENTERPRISE RENT A CAR, \$217.11 for rental car expense.

JANICE GROVES, \$566.86 for cleanup, labor and property damage resulting from obstructed sewer on 4/1/09 at 601 S.E. 14<sup>th</sup> Court.

TRAVELER'S INSURANCE COMPANY, \$4,204.70 to reimburse the Municipal Housing Agency's insurance carrier for damages caused when Agency's employee slid on ice and struck claimant's vehicle which in turn struck another vehicle on 2/13/09 on Oxford Street.

BENJAMIN RIVERA, \$100.00 for damage to claimant's siding and soffit resulting from incident on 5/12/09 when garbage collector struck electrical service line with the pickup arm at 317 East 18<sup>th</sup> Street; BAKER ELECTRIC, INC., \$272.65 for reconnection of power lines.

IOWA AUTO DAMAGE APPRAISERS, \$113.00 for appraisal of damage to vehicle that was damaged on 2/12/09 when fire crew put out car fire next to claimant's car in the parking ramp at 1100 Locust Street; JOHN MASON AND CHARLES GABUS FORD BODY SHOP, \$951.12 for repairs to claimant's vehicle; CHARLES GABUS FORD RENTALS, \$149.85 for rental car expense.

DES MOINES WATER WORKS, \$1,242.20 in payment of claim regarding incident of August 2008 when City crews replaced the sidewalk at 5206 Douglas Avenue and damaged water stop box.

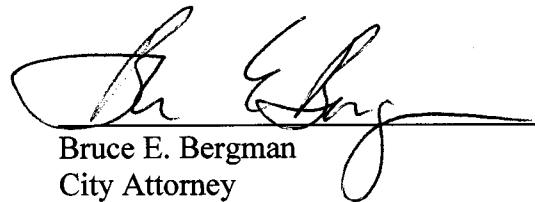
M.V.P. FENCE COMPANY, \$291.00 to repair fence that was damaged by pickup arm of the garbage truck on 4/23/09 at 5408 S.W. Third Street.

LINDA MCCOOL, \$270.30 for plumber's call relating to incident of 3/25/09 when sanitary sewer was obstructed at 228 Miller Street; NICOLE O'CONNOR, \$1,410.00 for property damage related to the incident.

M.V.P. FENCE COMPANY, \$572.00 for damage to chain link fence and gate at 1313 College Avenue on 5/14/09 when pickup arm of garbage truck struck the fence and gate.

DOROTHY SHEIL, \$430.00 to repair driveway that was damaged on 3/10/09 at 2620 37<sup>th</sup> Street when garbage collector was picking up toter for elderly resident and got stuck in her driveway; a tow truck had to be called and the driveway was damaged.

PAUL WRIGHT, \$137.00 in payment of claim for lost property when claimant was arrested on 5/17/09 at Court Avenue and Third Street; claimant's wallet and its contents were lost and not returned to him.

  
Bruce E. Bergman  
City Attorney