

★ Roll Call Number

Agenda Item Number

21

Date July 12, 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	

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  
Glenna K. Frank  
Gary D. Goudelock, Jr.

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



July 12, 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:

**CHARLES AND PEGGY STRIEF, \$75.00 in payment of property damage claim of 2/5/10 when garbage truck got stuck in claimant's driveway and had to be pulled free.**

**ENTERPRISE RENT-A-CAR, \$389.48 for rental car expense resulting from claim of 2/9/10 when plow driver struck parked car at 2816 Lyon Street.**

**GERALD WEIR, \$30.00 for repair of mailbox that was damaged on 2/28/09 when plow driver struck the mailbox at 3821 Easton Blvd.**

**TMC AUTO BODY, \$249.63 to replace vehicle's mirror resulting from incident of 3/16/10 when City driver passed claimant in the 4600 block of S.W. 9<sup>th</sup> Street and the plow blade struck mirror.**

**KINMAN GLASS, \$204.31 to replace windshield that was broke when claimant was following a City truck on 7<sup>th</sup> Street on 1/28/10 and a rock or piece of debris struck her vehicle.**

**DEAN LETTINGTON, \$54.07 in payment of property damage claim of 1/30/10 when claimant was westbound on Raccoon Street and struck a tree limb in the street while attempting to avoid oncoming car that failed to yield half of roadway; Public Works had report of a tree in the street.**

**MIDAMERICAN ENERGY COMPANY, \$477.64 for damaged gas meter that was hit by a snow plow on 12/21/09 at 118 S.E. 4<sup>th</sup> Street.**

**FRANK KOURI, \$288.75 for repairs to claimant's vehicle resulting from incident on 2/20/10 when plow blade struck vehicle at 2615 Park Place.**

**MIDAMERICAN ENERGY COMPANY, \$1,560.55 for damage to utility plow struck by plow driver on 2/9/10 in the 5500 block of Waterbury.**

KENNETH R. BORST, \$513.04 in payment of claim of 3/25/10 when a piece of debris fell from truck on I-235 and broke claimant's windshield.

RHONDA MARCUM, \$30.00 to replace mailbox that was struck by snow plow in March 2010 at 220 S.E. Payton Avenue.

SHANNON WILLIAMS, \$1,319.86 in payment of property damage claim of 2/20/10 when plow driver struck parked car on Miller Avenue.

TIMOTHY G. KRUSE, \$878.75 for repairs to claimant's vehicle resulting from incident of 3/20/10 when plow driver struck vehicle at 2809 Kingman Blvd.

WAYNE AND VICTORIA WALKER, \$2,205.00 for property damage caused by obstructed sanitary sewer on 3/11/10 at 1213 Porter Avenue; an additional \$1,395.00 for backups on 4/26/10 and 5/12/10.

TROY PLUMMER, \$3,913.26 in payment of property damage claim of 3/13/10 when sanitary sewer was obstructed with roots at 2536 East 16<sup>th</sup> Street.

ANN HOAGLAND, \$30.00 to replace mailbox that was uprooted by garbage truck pickup arm on 4/7/10 at 3515 East Emma Avenue.

DEWEY FORD, \$1,436.96 and \$251.44 for repairs to claimant's vehicle resulting from incident of 4/2/10 when garbage truck struck parked truck at 1137 45<sup>th</sup> Street; ENTERPRISE RENT A CAR, \$1,553.78 for rental car expense.

ROSE OF EAST DES MOINES, \$620.00 in payment of claim for property damage caused by a City vehicle in January or February of 2010; City vehicle struck claimant's fence at 1331 Idaho Street.

CINCINNATI INSURANCE COMPANIES, \$1,500.00 in payment of property damage and bodily injury claim of 7/15/07 when claimant drove into a street cut-out made at 3017 Mahaska Avenue.

JASON FOSTER AND ATTORNEY JOHN HEMMINGER, \$2,393.00 for bodily injury claim of 7/22/09 when police officer struck bicyclist at S.W. 9<sup>th</sup> Street and Leach Avenue; JOHNHEMMINGER AND CITY OF DES MOINES AMBULANCE SERVICE, \$607.00 for ambulance services.

MIDAMERICAN ENERGY COMPANY, \$509.80 for damage when garbage truck struck electric wire on 3/19/10 on 61<sup>st</sup> Street at Harwood Avenue.

WETSCH, ABBOTT & OSBORN, PLC CLIENT TRUST ACCOUNT, \$2,928.08 for judgment in a small claims case regarding incident of 1/23/09 in which road grader turned left from right lane at 3<sup>rd</sup> and Grand and was struck by automobile passing in middle lane.

EDWIN AND MARY LINDELL, INDIVIDUALLY AND AS HUSBAND AND WIFE, \$1,500.00 for bodily injury and property damage claim of 3/5/10 when police officer rear-ended claimant on ML King Blvd.

BROWN'S DIRT WORK, \$600.00 for repairs to water stop box that was buried when Public Works replaced sidewalk in 2005 at 3750 S.E. 10<sup>th</sup> Street.

METRO LAND MANAGEMENT, LLC, \$2,750.00 for plumber's fees, loss of business and damaged shrubs and sidewalk regarding claim of 2/3/09. Restaurant owner hired plumber to put in a 1,000 gallon grease trap because of his claim that WRA representative told him that all Sonic Restaurants have 750 gallon traps and the new regulations require the 1,000 gallon trap, however, the existing grease trap was a 1,000 gallon trap.

SHELTER INSURANCE COMPANIES AS SUBROGEE OF GARY CARTER, \$341.15 for vehicle repairs resulting from striking a pothole in alley adjacent to her house at 1214 College Avenue on 4/5/10; Public Works had placed patches on sinkholes, but had not permanently repaired them.

USAA INSURANCE COMPANY AS SUBROGEE OF AYANNA WATSON, \$3,450.10 in payment of claim of 2/14/10 when plow driver struck parked car in the 2300 block of University Avenue.

TMC AUTO BODY, \$260.00 in payment of claim resulting from incident of 5/1/10 when crew was painting on Ingersoll Avenue and got overspray on claimant's vehicle; ENTERPRISE RENT A CAR, \$26.99 for rental car expense associated with the claim.

M.V.P. FENCE, \$275.72 for repairs to claimant's fence at 4140 Fourth Street that was damaged on 4/28/10 when City tree fell on the fence.

TMC AUTO BODY, \$1,697.96 for repairs to City employee's personal car that City employee backed into at the Traffic shop on 4/26/10.

DAVID TAYLOR, \$221.61 in payment of claim of 3/24/10 when claimant struck pothole on Army Post Road which caused damages to his vehicle.

RICHARD KATZURECK, \$850.70 for plumber's call and repairs for property damage resulting from incident of 4/26/10 when sewer was obstructed at 1504 Lewis.

ENTERPRISE RENT-A-CAR, \$107.96 for rental car expense resulting from incident of 1/21/10 when City employee backed into co-worker's vehicle in the Public Works parking lot.

JASON RINCON, \$651.62 for repairs to claimant's vehicle that was damaged when struck by a mower on 5/7/10 at Pioneer Park.

SIMON ROJAS, \$200.00 for repairs to fence that was damaged by pickup arm of garbage truck on 4/19/10 at 1710 14<sup>th</sup> Street.

PATRICIA AND RAY GRANDMAITRE, \$1,000.00 in payment of claim for property damage of 5/11/10 when garbage truck attempted a turn at East 14<sup>th</sup> and Des Moines Street and struck claimant's vehicle.

JORGE SANCHEZ, \$269.44 in payment of property damage claim of 5/18/10 when garbage collector struck claimant's trellis with pick up arm of truck at 400 Arthur Avenue.

DARIUS L. AKERS, \$1,200.00 in payment of property damage claim of 6/1/10 when City driver pulled from stop sign at 28<sup>th</sup> and School Streets and was struck by claimant.

BROWN'S DIRT WORKS, \$600.00 for repairs to sidewalk and water stop box that was discovered damaged on 4/22/10 at 2940 East Seneca Street.

TMC AUTO BODY, \$1,317.80 for repairs to claimant's vehicle resulting from incident of 12/4/09 when plow driver struck parked car at 2108 38<sup>th</sup> Street; ENTERPRISE RENT-A-CAR, \$62.14 for rental car expense.

KELLEY HAUSCHILDT, \$4,000.00 in payment of property damage claim of 6/3/10 when City employee rear-ended vehicle on Army Post Road at South Union.

SHANA AND JASON PALMER, \$1,899.66 in payment of property damage claim of 3/30/10 and 4/1/10 when claimant had sewage in their house at 701 Boyd because the house had not been connected to new sewer line.

PAMELA CHRISTENSEN, \$1,233.19 in payment of claim of 6/3/10 when City employee rear-ended a car that pushed into this claimant's vehicle on Army Post Road at South Union.

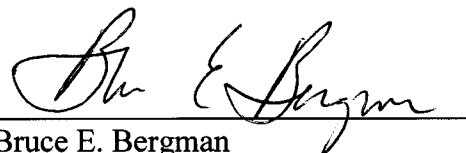
WAYNE MILLER, \$2,200.00 in payment of property damage claim of 3/15/10 when City driver ran red light at Indianola and Park Avenue and struck vehicle.

MICHAEL TYLER WILSON, \$347.69 for damage to claimant's vehicle on 5/22/10 when concrete fell from 7<sup>th</sup> Avenue overpass and broke glass in vehicle.

AUTUMN B. STEPHENS, \$3,473.00 for property damage resulting from obstructed sanitary sewer on 3/13/10 at 2536 East 16<sup>th</sup> Street.

KATHY PETERSEN, \$1,043.28 for property damaged caused by debris thrown from a mowing deck into claimant's vehicle on 6/17/10 on Fleur Drive.

OSMAN KOVACEVIC, \$233.20 for towing costs paid by claimant after car was stolen at 100th and Douglas Avenue in Urbandale and later found at 3101 Ingersoll Avenue by Des Moines police; towing should not have been charged since the car had been reported stolen.



Bruce E. Bergman  
City Attorney