

★ Roll Call Number

Agenda Item Number

24

Date August 11, 2008

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

24

August 11, 2008

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:

RODOLFO PENA, \$387.79 for repairs to claimant's vehicle resulting from incident of 3/12/08 when police officer lost control of vehicle and struck parked car at 93 East Second Street.

CITY OF BONDURANT, \$222.20 to repair stop sign that was damaged on 8/28/07 when police were involved in a chase of a stolen car and struck stop sign at the intersection of 2<sup>nd</sup> Street, N.E. and Grant Street, North in Bondurant.

WAYNE DEPENNING, \$656.10 in payment of property damage claim of 1/30/08 when sanitary sewer was obstructed at 4101 45<sup>th</sup> Street.

TIM'S BODY SHOP, \$2,128.52 for repairs to claimant's vehicle resulting from incident of 3/27/08 when Parks employee backed into vehicle at Mercy Hospital.

DAN SCIESZINSKI, \$250.00 for insurance deductible as a result of an accident on 1/22/08 when City Adjuster was driving his personal car for City business; he was driving on Fleur Drive and swerved to avoid a car that attempted a turn in front of him and he struck the car.

ANKENY AUTO BODY, \$168.46 for property damage resulting from incident of 2/15/08 when recycle truck driver backed over hood of parked car at 5710 Allison Avenue; ENTERPRISE RENT A CAR, \$266.37 for rental car expense.

MCCALL'S MONUMENT, \$110.00 to replace vase at Laurel Hill Cemetery that was broke during snow removal operations on 1/29/08.

ROCK OF AGES DES MOINES MEMORIALS, \$86.40 for repair to headstone that was damaged by City plow in February 2008 at the Laurel Hill Cemetery.

SCOTT NEVITT, \$30.00 for replacement of mailbox that snow plow struck in February 2008 at 2805 East Porter.



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

CHRISTIAN SWEENEY, \$150.00 for bodily injury claim of 1/17/08 when City plow truck struck claimant's vehicle on ML King Parkway at Boston.

M.V.P. FENCE COMPANY, \$134.50 to repair fence that was damaged when the pick up arm of the garbage truck hit the fence on 3/7/08 at 5432 Harwood Drive.

DR. LARRY OTTEMAN, \$562.22 for damage to claimant's vehicle resulting from incident of 2/22/08 when police officer was responding to request for assistance with sirens and lights activated and was struck by claimant who could not see due to stopped school bus at the intersection of S.E. 14<sup>th</sup> Street and Court Avenue.

TMC AUTO BODY, \$686.20 for repairs to vehicle that was damaged on 3/31/08 when City employee struck parked vehicle at the Oak Park Elementary School.

TERRUS REAL ESTATE GROUP, \$3,450.00 in payment of claim of 2/18/08 when Public Works crews damaged marble panels at 801 Grand Avenue while removing snow from sidewalk.

ELNORA ROSS, \$67.69 for replacement of mailbox that was damaged 2/14/08 when snowplow hit the mailbox at 3120 S.W. 31<sup>st</sup> Place.

DAVID PLUMB, \$144.41 in payment of claim for labor and plumber's call of 4/18/08 when sanitary sewer was obstructed with roots at 4140 Cambridge Street.

MARY BROWN, \$1,454.71 for repairs to claimant's vehicle resulting from incident of 5/9/08 when City driver backed from parking space at the Quik Trip on ML King Parkway into claimant's vehicle that was stopped for pedestrian.

PUROCLEAN DISASTER RESTORATION, \$804.01 for cleaning services resulting from incident of 4/11/08 when sanitary sewer was obstructed with roots and caused damage at 1269 E. 37<sup>th</sup> Court.

BROWN'S DIRT WORKS, LLC, \$831.00 for repairs to water stop box at 5506 S.E. Sixth Avenue that was damaged by City crews on 5/1/07 during sidewalk replacement.

RYAN EKERN, \$500.00 in payment of insurance deductible regarding claim of 4/8/08 when claimant was rear ended by City end loader while stopped at Park Avenue and Fleur Drive; STATE FARM INSURANCE AS SUBROGEE OF RYAN EKERN, \$1,236.21 for damages to vehicle.

KINMAN GLASS, \$224.84 in payment of claim of 12/1/07 when snow and ice from City plow broke claimant's windshield while travelling in the 4000 block of University Avenue.

RICHARD VANDERHOEF, \$350.00 in payment of claim for excavation of damaged water stop box at 1328 7<sup>th</sup> Street; City crew installed driveway in the summer of 2007 and damaged water stop box; DES MOINES WATER WORKS, \$1,402.00 for repair the stop box and to replace concrete.

LETICIA VILLALOBOS, \$2,938.01 for repairs to claimant's vehicle that was struck with pick up arm of garbage truck on 4/14/08 at 2728 Mondamin.

HY-LINE INTERNATIONAL LAB, \$1,687.04 in payment of claim of 5/21/08 when Public Works employee backed into claimant's truck at 3333 Merle Hay Road.

ALEX JUERGENS, \$1,672.87 for repairs to claimant's vehicle as a result of incident of 5/13/08 when garbage truck's pickup arm struck parked truck at 3400 First Street.

MARK COWAN, \$535.35 for repairs to vehicle that was damaged on 5/14/08 at the Nahas pool when an unsecured dumpster rolled down an incline and hit claimant's parked vehicle.

CANDE AND BILLIE SANCHEZ, \$1,150.00 in payment of claim for damages caused to claimant's driveway in October of 2006 when Public Works crews were rebuilding a sewer behind 3207 Henry Avenue.

M.V.P. FENCE COMPANY, \$192.50 in payment of claim of 5/25/08 when Public Works crew was removing tree at 4044 8<sup>th</sup> Place and damaged claimant's chain link fence.

BROWN'S DIRT WORKS, L.L.C., \$825.00 for damages related to water stop box at 5411 S.E. 6<sup>th</sup> Street that was found damaged in March 2008; City crew had replaced sidewalk and poured over box.

MICHAEL PRINCE, \$960.00 for damages to claimant's vehicle when City driver backed into parked car on 6/14/08 at 3012 Oxford.

DENNIS DAVIS, \$967.78 in payment of claim of 5/22/08 when cemetery crew damaged memorial at the Elm Grove Cemetery.

WATTS VAULT AND MONUMENT COMPANY, \$75.00 in payment of claim for damaged headstone at the Glendale Cemetery.

STEPHEN BARBOUR, \$35.92 in payment of claim of 6/16/08 when claimant hit pothole at East 7<sup>th</sup> Street and Euclid Avenue.

WATTS VAULT AND MONUMENT COMPANY, \$400.00 to replace memorial that was damaged by mowing crews at the Glendale Cemetery.

BRENDA KLINGER, A SINGLE PERSON, \$300.00 in payment of a bodily injury claim of 6/18/08 when claimant fell at the Laurel Hill Park due to a loose tile at the jungle gym.

MCCALL'S MONUMENT, \$350.00 in payment of claim for damages to vase and monument in the Laurel Hill Cemetery that was discovered in May 2007; damage was caused by crews was preparing nearby burial plot.

ACADEMY ROOFING AND SHEET METAL COMPANY, \$2,628.56 in payment of claim of 5/5/08 when police officer rear-ended truck in the 5700 block of N.E. 14<sup>th</sup> Street.

M.V.P. FENCE COMPANY, \$891.00 for repairs to fence in Glendale Cemetery that Dajana Alagic struck on 5/24/08; City collected from Dajana Alagic's insurance company so City is paying company that repaired the fence.

KENT ASCHAN, \$30.00 in payment of claim of 5/10/08 when police officers responded to a request for help with a possible overdose of drugs at 3310 Third Street and claimant contends that officer damaged storm door.

JANIS HARRIS AND GABUS FORD, INC., \$3,325.83 for repairs to claimant's vehicle resulting from incident of 6/23/08 when City driver struck vehicle at Second and Grand Avenues; GABUS FORD, INC., \$82.51 for parts price increase; ENTERPRISE RENT-A-CAR, \$466.16 for rental car expense.

JAMES HALSTEAD, \$200.00 for repairs to claimant's vinyl siding that was damaged on 5/28/08 when a garbage truck driver struck a tree limb that fell and damaged the siding at 3812 North Union.

VALERIE MARQUARDT, \$20.00 in payment of claim of 6/26/08 when the pickup arm of a garbage truck struck mailbox and plant at 4224 S.W. 25<sup>th</sup> Street.

MICHAEL GOODWIN, \$250.00 for damage to claimant's toolbox; claimant is a City garage mechanic and his toolbox was moved on 6/13/08 due to anticipated flooding.

DAVID PALMER, \$83.74 in payment of claim of 6/13/08 when claimant's toolbox was moved from City garage to the Airport in anticipation of flooding and the handle was damaged.

M.V.P. FENCE COMPANY, \$195.00 for repairs to a chain link fence at 2643 Beaver Avenue that was damaged by Public Works crews in June 2008 while they were preparing for a new sidewalk.

ALEJANDRO TRISTAN, \$10.00 in payment of claim of 7/8/08 when garbage truck struck curb with newly painted house numbers at 1508 East 17<sup>th</sup> Street.

ROXANNE WILKEN, \$1,675.00 for damage to claimant's house on 6/12/08 when City tree fell on claimant's roof at 3206 First Street.

JONATHAN INGRAM, \$1,000.00 in settlement of claim of 6/30/08 when police officer struck claimant's vehicle while swerving to avoid a deer at Euclid and ML King Parkway.

SHELIA ROUSE, \$493.02 for repairs to claimant's vehicle as a result of incident of 7/18/08 when Parks employee struck parked car at the main Library; ENTERPRISE RENT-A-CAR, \$59.92 for rental car expense.

BRUCE AND DEB MILLER, \$146.60 as payment for plumber's call and cleanup for damage at 2511 Morton on 5/24/08 when sanitary sewer was obstructed with roots.

TRACEY GRAVES, \$1,967.92 in payment of property damage claim of 3/8/08 when sanitary sewer was obstructed at 1216 West Street.

DIANE K. ENGLAND, \$496.90 for plumber's call and cleaning regarding claim of 4/25/08 when sanitary sewer was obstructed with roots at 607 Herold Avenue.

NICHOLAS MEYNE, \$1,237.31 in payment of claim of 7/19/08 when police officer backed into parked car at 2819 48<sup>th</sup> Place.

KEZIA WILLIAMS, PARENT AND LEGAL GUARDIAN OF MARSHANTI JENKINS, \$250.00 in settlement of claim of 5/26/08 when claimant cut her toe on defective slide at Good Park.

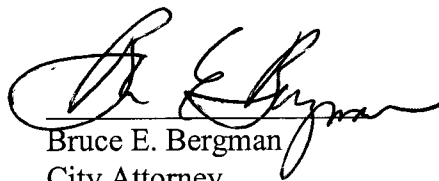
KINMAN GLASS, \$472.80 for replacement of side window on claimant's vehicle resulting from incident of 6/26/08 when a rock was thrown from a weed eater at Burke Park.

KINMAN GLASS, \$36.02 in payment of claim of 5/30/08 when City employee was weed eating at Witmer Park and a rock was thrown into claimant's house window which is adjacent to the park.

LORI MORGAN, \$294.25 in payment of claim of 7/6/08 when police impounded claimant's car which had been reported as stolen; claimant showed proof of ownership, but the car was impounded anyway. Payment is for impound fee, towing and storage charge.

SCOTTY'S BODY SHOP, INC., \$1,079.36 for repairs to claimant's vehicle resulting from incident of 6/28/08 when police officer backed into claimant's car on Ingersoll at MLK Jr. Parkway.

JANE HUGHES, \$1,843.00 in payment of claim for property damages resulting from obstructed sanitary sewer on 4/17/08 at 2905 and 2907 Sixth Avenue.

  
Bruce E. Bergman  
City Attorney