

★ Roll Call Number

Agenda Item Number

27

Date September 14, 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  
Glenna 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



September 14, 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:

**JOHN AND KORY MERRYFIELD, \$870.30 in payment of property damage claim of 4/27/09 when sanitary sewer was obstructed at 511 Creston Avenue.**

**MARTHA AND GARY ADKISSON, \$3,404.77 for property damage at 3103 Shawnee Avenue on 4/26/09 caused by obstructed sanitary sewer.**

**MICHAEL AND LISA BEAVES, \$2,250.49 in payment of property damage claim of 4/26/09 when sanitary sewer was obstructed with roots and caused a backup at 3013 Shawnee Avenue.**

**JEAN L. MCCREA, \$135.15 in payment of claim for plumber's call of 2/20/09 regarding sewer backup at 4101 East 10<sup>th</sup> Street.**

**JENNIFER FAULKNER, \$703.68 for repair of water stop box that was damaged in October of 2008 at 2133 Maple Street when City crews repaired a sinkhole in the right-of-way.**

**MCCALL MONUMENT, \$110.00 in payment of claim for cemetery vase that City crews damaged at the Laurel Hill Cemetery in 2008.**

**JUDY PETTINGER, \$214.60 for plumber's calls, cleaning supplies and labor costs resulting from obstructed sanitary sewer on 4/23/09 and 4/27/09 at 3515 Glover.**

**CHARLES GABUS RENTALS, \$349.65 for rental car expense resulting from incident of 1/25/09 when plow driver struck vehicle in the 3700 block of Rollins Avenue.**

**HUBERT AND LOIS QUICK, \$804.21 for property damage caused by obstructed sanitary sewer on 4/26/09 and 4/27/09 at 6800 S.W. 14<sup>th</sup> Street.**

NATIONWIDE INSURANCE AS SUBROGEE OF JANEEN WOODSEN, \$2,294.30 in payment of property damage claim of 4/28/09 when City driver backed into claimant on Delaware and Hull Avenues.

RENEE VUPER, \$3,206.64 in payment of claim of 4/10/09 when sanitary was obstructed and caused property damage at 1409 Kenyon Avenue.

GARY ANDERSON, \$3,381.59 in payment of property damage claim of 4/27/09 caused by obstructed sanitary sewer at 2425 Tomlin Avenue.

PATRICIA WOODS, \$200.00 in settlement of claim for damaged stone wall at 1703 Mondamin Avenue that was discovered in October of 2008; City crews had been replacing curbs in that area at the time.

LINDA MCCARL, \$200.00 in payment of claim of 6/12/09 when City crews were on property at 2111 East 41<sup>st</sup> Street to gain access to another property and damaged the yard.

PROGRESSIVE NORTHERN INSURANCE COMPANY AS SUBROGEE OF LUSITO CABRERA, \$1,521.91 in payment of claim of 5/29/09 when Fire Department employee struck claimant's stopped vehicle while attempting a turn from Grand Avenue onto 10<sup>th</sup> Street.

FRITZIE BAILEY, \$157.00 for lost property resulting from incident of 5/6/08 when claimant was arrested at 2222 ML King Blvd. and police did not return CD's and DVD's which were lost.

ENTERPRISE RENT A CAR, \$133.16 for rental car expense associated with claim of 6/4/09 when Public Works employee was pulling a trailer that hit claimant's parked car on Madison Avenue at East 27<sup>th</sup> Street; PLEASANT HILL AUTO BODY, \$3,445.42 for property damage.

MIDAMERICAN ENERGY COMPANY, \$781.40 in payment of claim of 4/2/09 when City employee struck utility pole with a back hoe at 1409 S.W. Kenyon Avenue.

JENNIFER WEIR, \$3,000.00 for repairs to private sewer line at 2408 High Street that is served by a combination sewer that is separated by a WRA project.

DANETTE STRITT, \$106.00 for replacement of gutter at 1404 57<sup>th</sup> Place resulting from incident of 6/19/09 when garbage collector struck overhead cable line with the pickup arm.

CHAD AND MELISSA WARDLOW, \$1,625.00 in payment of claim regarding obstructed sanitary sewer on 4/26/09 and 6/6/09 which caused property damage at 2220 52<sup>nd</sup> Street.

MIDAMERICAN ENERGY COMPANY, \$143.98 for repairs to electrical service line at 1366 East 18<sup>th</sup> Street that was hit by a pickup arm of the garbage truck on 5/12/09.

DEOGRATIUS MPINGE, \$528.81 for lost property resulting from incident of 6/24/09 when claimant was arrested and police lost his Blackberry phone.

SANDRA AND ROBERT NEFF, \$300.00 for repairs to fence that was damaged by the pickup arm of by garbage truck on 7/10/09 at 1920 Pleasant Street.

M.V.P. FENCE, \$100.00 for repairs to fence at 3724 East University Avenue that was struck on 7/1/09 by the pickup arm of a garbage truck.

ENTERPRISE RENT A CAR, \$310.74 for rental car expense associated with incident of 6/15/09 when claimant was stopped for car ahead and was rear-ended by fire truck on East 14<sup>th</sup> at the I-235 eastbound off ramp.

MARK LAURENZO AND R. JONES BODYPROS, \$1,548.02 in payment of property damage claim of 5/8/09 when City driver rear-ended claimant's stopped vehicle on I-235 at East Sixth Street.

CONNIE MASOLINI, \$10.60 for replacement of broken solar light that was broke when garbage collector dropped a tote on it on 7/10/09 at 5621 Terrace Drive.

STATE FARM INSURANCE AS SUBROGEE OF R. USSERY, \$281.50 in payment of claim for property damage of 12/8/07 when plow driver struck claimant's vehicle on S.E. 14<sup>th</sup> Street at Lacona.

ENTERPRISE RENT A CAR, \$340.94 in payment of claim of 6/24/09 when Parks employee backed into parked rental car in front of the Savery Hotel.

LYNNISE SMITH, \$250.00 for claimant's collision insurance deductible resulting from incident of 7/15/09 when police officer backed into claimant's stopped vehicle at Walnut and Sixth Avenue; STATE FARM INSUANCE AS SUBROGEE OF LYNNISE SMITH, \$2,375.31 for vehicle damage.

MIDAMERICAN ENERGY COMPANY, \$107.67 in payment of claim of 6/24/09 when pick up arm of garbage truck tore down electrical line at 2210 East 40<sup>th</sup> Court.

RICHARD AND KAREN BASON, AS HUSBAND AND WIFE, \$808.00 in payment of property damage claim of 7/15/09 when City employee was driving on Robert D. Ray Drive and struck claimant's vehicle.

BOGDAN IVANOVSKI, \$238.45 for repairs to claimant's windshield resulting from incident of 7/31/09 when rock or debris fell from City dump truck and broke claimant's windshield while he was traveling on I-35.

JOHN CREASON, \$647.43 in payment of claim of 7/22/09 when City employee had parked his motorcycle in the Public Works supply yard; Public Works crew was weed eating and debris hit claimant's motorcycle.

EDDIE RUMBAUGH, \$72.58 as reimbursement for towing and impound fees regarding incident of 7/30/09 when police impounded claimant's vehicle at ML King and Hickman; a licensed driver arrived before the tow truck and wanted to take the vehicle so it wouldn't be towed, but the police had it towed anyway.

ARLETTA DAWSON, \$750.00 in payment of claim of 5/14/09 when sewer crew damaged driveway at 3731 Skyline Drive while installing new sewer intake.

MCCALL MONUMENT, \$110.00 for damage to memorial vase at the Laurel Hill Cemetery that was discovered by claimant on 5/18/09.

BARBARA WILLIAMS, A SINGLE PERSON, \$1,500.00 in payment of bodily injury claim of 5/7/09 when claimant stepped into a pothole at the old library parking lot at 2<sup>nd</sup> and Walnut and sprained her ankle.

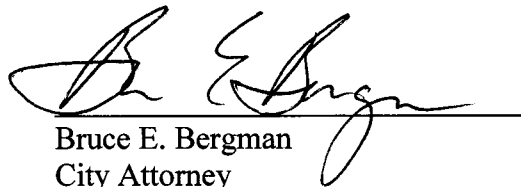
TMC AUTO BODY, \$212.00 for repairs to vehicle resulting from incident of 7/29/09 when City employee made a right turn from S.W. 9<sup>th</sup> Street onto Creston Avenue and struck claimant's vehicle; ENTERPRISE RENT-A-CAR, \$119.84 for rental car expense.

GREATER LOVE CHURCH OF GOD IN CHRIST, \$803.46 for property damage resulting from obstructed sewer on 6/13/09 at 1440 DeWolf Street.

DES MOINES WATER WORKS, \$630.00 in payment of claim regarding incident of 5/4/09 when Public Works replaced curbs and part of the street at 1222 Lewis Avenue and damaged the water stop box.

TRINA GOMEZ, \$225.00 and LEROY REEVES, \$150.00 in payment of property damage claim of 8/17/09 and 8/18/09 when City crews applied asphalt emulsion to S.W. 63<sup>rd</sup> Street and particles blew onto vehicle and house at 5063 S.W. 63<sup>rd</sup> Street.

DENNIS AND TONIA ACKERMAN, \$620.60 for repairs to claimants' vehicle resulting from incident of 2/19/09 when garbage collector knocked basketball hoop into claimants' vehicle.



Bruce E. Bergman  
City Attorney