

★ Roll Call Number

Agenda Item Number

19

Date November 6, 2006

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				
VLASSIS				
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

November 6, 2006

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:

CENTRAL IOWA MONUMENT, \$80.00 for replacement vase that was broken by cemetery crews in winter 2005 at the Laurel Hill Cemetery.

LISA BEAVER, \$126.22 for plumbers call and clean up at 203 S.E. Philip Street resulting from obstructed sanitary sewer on 4/1/06.

KARL CHEVROLET, \$3,315.50 in payment of claim regarding incident of 5/16/06 when police officer had a seizure and struck claimant's parked van in the 300 block of N.E. 5<sup>th</sup> Street in Ankeny; police officer lives in Ankeny and is allowed to take a police vehicle home; ENTERPRISE RENT A CAR, \$476.06 for rental car expense.

NANCY WILSON, \$663.07 for vehicle damage resulting from incident of 5/9/06 when police officer backed into claimant's parked car in the 600 block of Robert D. Ray Drive; ACHESON AUTO WORKS, \$39.99 for additional vehicle parts; ENTERPRISE RENT A CAR, \$115.40 for rental car expense.

MARJORIE DENNISON, \$1199 (petty cash was used to buy garage corner piece and paint and damage was fixed by City employee), for property damage to corner of garage at 2931 35<sup>th</sup> Street resulting from incident of 4/10/06 when Public Works crews damaged garage when picking up trash.

ROBBIE LYDIC, \$2,391.00 as a settlement for a worker's compensation claim of 6/1/05 when Public Works employee injured his elbow when he lifted a recycle bin filled with magazines on E. 9<sup>th</sup> Street.

JUDITH L. ENNIS, \$100.00 for damage resulting from incident of 6/2/06 when Fire Department put out brush fire at 1983 S.W. First Street and damaged chain link fence with water hose.

GREG AND JACY COWAN, \$994.00 for property damage caused on 2/6/06 4/1/06 at 4719 Pleasant Street when sewer was obstructed with roots and debris.



LEGAL DEPARTMENT  
CITY HALL  
400 ROBERT D. RAY DRIVE  
DES MOINES, IOWA 50309-1891  
(515) 283-4130 Administration  
(515) 283-4584 Litigation  
FAX (515) 237-1643 Administration  
(515) 237-1748 Litigation

ALL-AMERICAN CITY  
1949, 1976, 1981  
2003

CITY ATTORNEY  
BRUCE E. BERGMAN

DEPUTY CITY ATTORNEYS  
MARK GODWIN  
LAWRENCE R. McDOWELL  
KATHLEEN VANDERPOOL

ASSISTANT CITY ATTORNEYS  
ROGER K. BROWN  
EMILY GOULD CHAFA  
THOMAS J. CLARKE, JR.  
ANN M. DIDONATO  
DAVID A. FERREE  
MICHAEL F. KELLEY  
MARY A. LAUGHLIN  
VICKY L. LONG HILL  
SUSAN A. LOW  
STEVEN C. LUSSIER  
KATHARINE J. MASSIER  
CAROL J. MOSER  
DOUGLAS P. PHILIP

TODD PETERSON, \$800.00 in payment of property damage claim regarding obstructed sanitary sewer at 4717 Pleasant Street on 2/6/06 and 4/1/06.

TOM O'CONNOR, \$78.00 for repair of gutter that was damaged by City crew while grading alley on 5/18/06 at 2823 Rutland Avenue.

AMY KARAIIDOS, \$2,174.63 in payment of property damage claim of 5/16/06 when City driver backed into vehicle on East 12<sup>th</sup> Street at Oak Park Avenue; ENTERPRISE RENT A CAR, \$259.64 for rental car expense.

PRO DRY, \$804.96 in payment of claim for water removal, cleaning and property damage regarding incident of 6/2/06 when sanitary sewer was obstructed at 3220 East 36<sup>th</sup> Court and caused damage.

TINA HADE, \$548.60 for damage to claimant's vehicle resulting from incident of 6/2/06 when electric gate at Gray's Lake closed on claimant's vehicle.

BRIAN BOWSER AND ASHLEY CLINE, \$295.85 in payment of property damage claim of 4/17/06 when sanitary sewer was obstructed at 1827 13<sup>th</sup> Street.

MARY BOLDEN, \$267.65 in payment of claim for plumber's call, cleaning and cleanup regarding incident of 4/29/06 when sanitary sewer was obstructed at 1331 East 16<sup>th</sup> Street.

DIXIE MAZZIE, \$815.00 in payment of property damage resulting from obstructed sanitary sewer on 4/3/06 at 4433 Park Lawn Drive.

JAMES SCHOON, \$477.40 in payment claim for plumber's call, and property damage regarding incident of 4/11/06 when sanitary sewer was obstructed at 3637 Kinsey Avenue.

LEANNE PFANTZ, \$1,002.56 for property damage claim of 6/13/06 when Parks watering truck struck claimant's parked vehicle in the 400 block of Tenth Street; ENTERPRISE RENT A CAR, \$62.14 for rental car expense.

COSMAS L. SPEARS, \$843.84 for property damage and plumber's call resulting from obstructed sanitary sewer on 12/31/05, 1/31/06, 4/13/06 and 4/14/06 at 1700 Merle Hay Road.

JAMES EUGENE JEWITT AND ATTORNEY BARBARA DIMENT, \$840.00 for bodily injury claim and civil rights violation regarding incident of 6/23/04 when claimant was arrested for interference of official acts and he was found not guilty; K-9 officer bit down on claimant.

WAYNE HEIKEN, \$50.00 for repairs to claimant's hillside resulting from incident of 6/20/06 when Public Works crew was removing brush and debris at the end of the street around 2827 Allison Avenue and backed into claimant's driveway and damaged the hillside.

JAMES CALKINS, \$2,553.72 in payment of workers' compensation claim of 3/7/06 when City employee twisted his knee while getting out of the way of falling equipment at S.E. 14<sup>th</sup> and Indianola Road.

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REGINA YOUNG, \$1,267.70 in payment of claim of 5/28/06 when police officer stopped vehicle driven by claimant's son at SE 10<sup>th</sup> and Watrous; police officer accidentally discharged weapon into the rear door of the vehicle; BRAD'S COLLISION CENTER, INC., \$148.88 for supplemental property damage; ENTERPRISE RENT A CAR, \$403.88 for rental car expense.

NEVA AND SUSAN HARVEY, \$300.00 in payment of claim of 6/19/06 when claimants' fence was damaged by mower deck while Parks Department employee was mowing at a City park.

MOHAMED ABU-HAGI, A SINGLE PERSON, \$2,180.00 for bodily injury and property damage claim of 11/22/05 when police officer rear-ended a car at University Avenue at 26<sup>th</sup> Street and that vehicle then hit the vehicle that claimant was a passenger in.

JAMES REN, \$3,794.00 for property damage resulting from incident on 3/29/06 when Public Works crew "jetted" the City main and it caused sewer backups at 4307 S.E. 13<sup>th</sup> Street.

RIC KENNEDY, \$60.00 for property damage resulting from obstructed sewer on 6/16/06 at 4826 Lyndale Drive.

TMC AUTO BODY, \$168.90 for removal of overspray on claimant's vehicle; Traffic and Transportation had painted new white lines at South Union and Watrous on 7/28/06.

GHOLAM MIRAFZAL, \$77.24 for reimbursement of impound fees; claimant had notified police that his car was disabled in the 400 block of 42<sup>nd</sup> Street on 7/24/06 and he was having it towed, but police inadvertently had vehicle towed.

HELEN STEIN, \$477.38 in payment of claim of 5/26/06 when Library driver backed into claimant's parked car at the Central Library at 1000 Grand Avenue.

MARTIN GRAPP, \$1,153.79 and \$71.22 for payment of property damage resulting from incident on 6/23/06 when claimant's parked vehicle was struck by the "pick up" arm of a City recycle truck in the 6100 block of Frances Street.

JAMES BECKER, \$134.80 in payment of claim of 8/9/06 when airport lift gate came down on top of claimant's vehicle at the Des Moines Airport.

TMC AUTO BODY, \$1,483.03 for damage to claimant's van when Parks employee backed into claimant's parked vehicle on 6/22/06 at Union Park.

DES MOINES WINTERSET MEMORIALS, \$150.00 for damage caused on 7/5/05 when mower operator struck vase on memorial at Glendale Cemetery.

MELISSA PARKER, \$21.32 in payment of claim of 8/9/06 for property damage when claimant struck exposed manhole at 38<sup>th</sup> Street and Woodland Avenue.

MARGARET E. ROTHAMEL, \$1,461.67 in payment of claim of 3/28/06 when City driver struck claimant's vehicle while attempting a turn at High and Ninth Streets.

CHARLES GABUS FORD, INC., \$1,850.38 in payment of claim of 7/24/06 when Parks Department rented a van from Charles Gabus Ford, Inc. and was involved in an accident at Hartford and S.E. Fifth Streets; Parks did not purchase collision damage waiver.

AUGUSTINE DAVILA, \$100.00 in payment of claim of 7/29/06 when claimant's bike was impounded and stolen from police bike rack.

SERVICEMASTER BY KINTZ, \$2,978.03 for cleanup of resulting from obstructed sanitary sewer on 6/15/06 at 5706 S.W. 4<sup>th</sup> Street.

TEAM RUPPLE, L.L.C., \$195.00 for reimbursement of tow costs regarding incident of 6/19/06 when Community Development Department had bus towed from 1307 S. Union after notice was sent to property owner that bus did not have a current license; sticker was missing, but bus was property licensed and operable.

PHYLLIS AND ALBERT SMITH, \$2,000.00 in payment of bodily injury claim of 8/18/06 when City driver rear-ended claimant in the 1200 block of Sixth Avenue; TMC AUTO BODY, \$1,490.22 for damage to vehicle; ENTERPRISE RENT A CAR, \$124.28 for rental car expense associated with the claim.

JAYNE AND RAYMOND LIPOVAC, \$750.00 for stop box replacement at 2500 S.E. 8<sup>th</sup> Street resulting from incident in the fall of 2004 when Public Works installed new sewer in front of claimant's home and damaged the stop box.

DOUGLAS FREERKSEN, \$3,990.50 for repair to claimant's vehicle resulting from incident of 8/24/06 when City driver struck claimant's car at 19<sup>th</sup> and Day Streets; ENTERPRISE RENT-A-CAR, \$119.84 for rental car expense associated with the accident.

CLAUDE STEED, \$619.00 for property damage associated with an obstructed sanitary sewer on 4/22/06 at 2614 East 40<sup>th</sup> Court.

TIM JACKSON, \$202.92 in payment of claim of 6/26/06 when City employee had his car parked at S.E. 4<sup>th</sup> Street between Elm and the railroad tracks at the Public Works compound; a Parks employee was mowing in the area and the mower threw a rock and broke claimant's side glass.

DAVID RATLIFF, \$2,450.44 in payment of claim for property damage resulting from incident of 7/26/06 when metal gate closed on claimant's car at Woodland Cemetery; TMC AUTO BODY, \$25.00 for time expended trying to find used car parts.

TMC AUTO BODY, \$672.21 for repairs to City employee's vehicle that was parked at the Public Works garage and was hit by a street sweeper on 9/12/06; ENTERPRISE RENT A CAR, \$89.88 for rental car expense associated with this claim.

TMC AUTO BODY, \$393.70 in payment of claim of 8/31/06 when a shovel fell from Fire Department truck at the Douglas Avenue station and hit employee's vehicle; ENTERPRISE RENT A CAR, \$119.84 for rental car expense.

RUTH ANN BUNCE, \$2,423.65 for property damage resulting from incident on 9/5/06 when City driver pulled from stop sign on 44<sup>th</sup> Street onto Hickman Road and struck claimant; ENTERPRISE RENT A CAR, \$239.68 for rental car expenses associated with the claim.

CRAIG SHEPHERD, \$531.05 in payment of property damage claim of 9/14/06 when Public Works crew used a high-pressure stream of water for a sewer backup in the vicinity of S.W. 17<sup>th</sup> Street which caused a sewer backup at 7112 S.W. 17<sup>th</sup> Street.

BARBARA L. DRAKE, \$31.80 in payment of claim of 9/11/06 for a damaged tire resulting from claimant striking a raised manhole that had been removed to prepare for new asphalt overlay on Grand Avenue at 5<sup>th</sup> Street.

TMC AUTO BODY, \$359.98 for vehicle repair resulting from incident of 9/16/06 when claimant was entering Gray's Lake and gate swung closed on his car.

NICOLE GIST, \$898.04 in payment of claim of 8/18/06 when police officer struck claimant on University Avenue at East 37<sup>th</sup> Court.

DES MOINES ROCK OF AGES MEMORIALS, \$106.60 to replace vase broken on 8/11/06 during mowing operations at the Glendale Cemetery.

KRISTIE GOBLE, \$840.00 in payment of claim of 9/5/06 when Public Works crews were working in the 400 block of S.W. Leach and the bucket of a bobcat operated by a City employee struck claimant's vehicle.

KAROLYN ROBINSON, \$106.59 in payment of claim resulting from incident of 9/11/06 when claimant struck raised manhole cover on Grand Avenue at 5<sup>th</sup> Street.

NATE LOGAN, \$880.45 for claim of 7/25/06 when City driver raised pick up arm of truck which pulled a cable down that struck his vehicle at 3808 15<sup>th</sup> Street.

TRUST ACCOUNT OF ROBERT WRIGHT, JR., \$3,000.00 in payment for a claim of 10/31/05 when a medic truck failed to stop at a stop sign at 40<sup>th</sup> Street and Douglas Avenue and was struck by another vehicle; person being transported incurred hospital charges and later died from causes other than those in this incident.

KINMAN GLASS, \$135.95 for repair of vehicle mirror resulting from claim of 8/9/06 when street sweeper operator struck claimant's vehicle mirror on 31<sup>st</sup> Street at Grand Avenue.

SHAWN SHERMAN, \$86.35 in payment of claim of 9/11/06 when shovel fell onto Grand Avenue from Public Works truck and claimant struck it with his vehicle which blew the tire.

DES MOINES ROCK OF AGES MEMORIALS, \$600.00 to replace headstone at the Glendale Cemetery that was damaged by City mowing crews in June of 2006.

MARK AND CINDY HACKER, \$30.00 to replace mailbox that garbage collector struck on 10/04/06 at 5959 S.E. 16<sup>th</sup> Court.

RICHARD HANSEN, \$932.80 in payment of claim regarding damaged water stop box that was probably caused by City crews that replaced sidewalk at 1109 Grand Avenue approximately 10-15 years ago, but was just discovered.

SCHLIEVERT PLUMBING, INC., \$502.13 for damaged water stop box at 302 37<sup>th</sup> Street; Public Works crews replaced curbs in 2002 and bent two stop boxes.

BRAD GRIFFEY, \$4,395.85 in payment of workers compensation claim of 2/24/06 regarding wrist problems of City Public Works employee due to work involving scooping and shoveling asphalt.

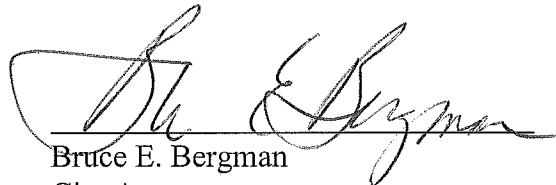
PRO TEAM CARPET CARE, \$1,279.84 for cleanup at 7111 S.W. 17<sup>th</sup> Street; Public Works was called to a neighbors home regarding a sewer backup on 9/14/06 and crews used a vactor truck to clear obstruction which caused this backup.

ANDREW LEE, \$3,633.77 for replacement of a sump pump, water heater and plumber's call at 2708 Ingersoll Avenue in August 2006 caused by sewer backups.

FAREWAY STORES, INC., 250.00 as a refund of liquor license fee paid on 1/9/04 for 100 East Euclid Avenue; decided by an Iowa Supreme Court Decision.

JIM KIM, INC., \$350.00 as a refund of liquor license fee paid on 6/15/04 for 1500 S.E. First Street; decided by an Iowa Supreme Court Decision.

TMC AUTO BODY, \$382.60 in payment of claim of 9/30/06 when Animal Control Officer backed into parked car at the Animal Care Shelter at 1615 S.E. 14<sup>th</sup> Street.



Bruce E. Bergman  
City Attorney