

★ Roll Call Number

Agenda Item Number

24

Date..... December 17, 2007

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

December 17, 2007

24

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:

DAVID AND RHONDA MARTIN, \$2,085.00 for property damage resulting from obstructed sanitary sewer on 4/25/07 at 1449 Cummins Parkway; EMC RISK SERVICES, LLC, \$2,500.00 for the subrogation claim.

JUNE E. REIMER, \$236.70 in payment of property damage claim of 4/25/07 when sanitary sewer was obstructed at 3212 Tiffin Avenue.

TYNIKA NELSON, \$1,407.93 for repair to claimant's vehicle resulting from incident of 5/20/07 when City driver struck parked car at 4142 57th Street.

ENTERPRISE RENT-A-CAR, \$115.40 for rental car expense resulting from incident of 5/22/07 when parks employee backed into claimant's car at SE 14th and Indianola.

ZOSH CHODA, \$869.96 for property damage when City employee backed into claimant's vehicle on 3/21/07 at SE 5th and McKinley.

JOE AND MIA COUNTRYMAN, \$5,000.00 for property damage at 2211 High Street resulting from sewer backups on May 6 and 30, and June 21 and 22, 2007 caused by installation of new sewer system.

TIM AND MARIAN HOLMES, \$3,984.25 in payment of claim of 4/25/07 when sanitary sewer was obstructed at 1326 Cummins Parkway and caused property damage.

CAROL AND KEN FELDMAN, \$5,000.00 for property damage from sewer backups on May 6 and 30, and June 21 and 22, 2007 at 2203 High Street caused from installation of new sewer system.

ENTERPRISE RENT-A-CAR, \$59.92 for rental car expense resulting from incident of 6/2/07 when police officer backed into claimant's parked car in the 1700 block of 8th Street.



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, 1978, 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

MICHAEL F. KELLEY

MARY A. LAUGHLIN

VICKY L. LONG HILL

SUSAN A. LOW

STEVEN C. LUSSIER

KATHARINE J. MASSIER

CAROL J. MOSER

DOUGLAS P. PHILIPH

MARIA DEL CARMEN URIBE, \$1,213.27 in payment of claim regarding incident of 5/14/07 when claimant was traveling on 14th Street and a temporary stop sign blew into her vehicle causing damage.

TMC AUTO BODY, \$848.75 for damages caused to claimant's vehicle when a fire truck turned the corner at Cherry and 10th Streets and struck the vehicle with the bucket; REDSTONE PAINTING COMPANY, LLC, \$97.70 to replace decal and for an appearance allowance of a scratched side glass.

PAMELA AND JOHN MCWILLIAMS, INDIVIDUALLY AND AS WIFE AND HUSBAND, \$60.00 for an insurance co-pay resulting from incident of 6/29/07 when claimant sprained an ankle on a newly-installed sidewalk at the Blank Park miniature golf course.

M.V.P. FENCE COMPANY, \$390.00 for repair to fence at 1401 Chautauqua Parkway due to damage on 4/9/07 caused by the pick-up arm of a garbage truck.

ENTERPRISE RENT-A-CAR, \$227.49 for rental car expense resulting from claim of 3/27/07 when fire truck turned the corner at Cherry and 10th Streets and struck claimant's vehicle with the bucket of the truck.

MARTHA BRIGHTMAN AND DEAN PAULSEN AND SONS CONTRACTORS, \$799.88 for repair of claimant's house as a result of incident of 7/3/07 when pick up arm of garbage truck struck claimant's utility lines and damaged claimant's house.

PAUL MANLEY, \$2,233.88 in payment of claim of 4/25/07 when sanitary sewer was obstructed with roots at 6016 University Avenue and caused property damage.

DIANE CASEY, \$3,190.00 for property damage resulting from obstructed sanitary sewer on 7/13/07 at 3026 Hubbell Avenue.

ADAM BRADLEY, \$800.00 for repairs to claimant's vehicle caused by incident of 7/12/07 when street sweeper struck claimant's parked car at 4021 Manor Lane.

DES MOINES WATER WORKS, \$1,270.00 to repair water stop box at 1327 Clark Street; damaged was discovered on 4/3/07 and confirmed that City had replaced curbing at that location.

WILLIAM H. PORTER, \$1,515.77 in payment of property damage claim of 3/12/07 and 3/13/07 when sanitary sewer was obstructed with grease at 2124 44th Street.

BROWN'S DIRT WORKS, LLC, \$525.00 for repairs to water stop box at 3112 North Union Street; City crews had recently replaced driveway and curbs during the Union Park Sewer Separation project and damage was discovered 6/20/07.

LYNNAE KOSTER, \$1,233.50 for medical expenses associated with claim of 5/2/07 when claimant fell over raised step at Gray's Lake.

CASSANDRA YARWOOD, \$457.10 for damages to claimant's vehicle resulting from incident on 8/9/07 when police officer struck vehicle's fender with his fist while directing traffic by the Iowa State Fair on 33rd Street; \$70.20 for rental car expense.

TMC AUTO BODY, \$250.00 for removal of paint from claimant's vehicle resulting from driving through newly-painted crosswalk section on Indianola Road between Easter Lake Road and S.E. McKinley on 8/16/07.

TERRY DOTTS, \$1,980.24 in payment of a workers compensation claim of 4/18/07 when City Public Works employee fractured his finger when it was caught between two chunks of concrete.

THU PHAN, \$300.00 in payment of property damage claim of 8/27/07 when City sidewalk crews hit a gas line at 1100 East Ninth Street.

DEBORAH IIAMS, \$683.16 in payment of claim of 9/4/07 when garbage truck struck a tree and the limb fell and hit the power line at 3706 52nd Street.

CLARISSA MCCURRY, \$94.73 for claim of 8/20/07 when claimant's vehicle was towed after being struck by another vehicle at 815 28th Street.

CAROL AND KEN FELDMAN, \$5,000.00 for property damage at 2203 High Street on 7/15/07 resulting from a sewer backup caused by improper installation of vertical screens for the new Ingersoll Run Combined Sewer Overflow Project; \$5,000.00 for property damage on 7/22/07; and \$4,500.00 for damage to vehicle on 9/6/07 that was damaged due to flooding caused by the improper sewer installation.

TMC AUTO BODY, \$164.00 to clean asphalt from vehicle; claimant drove through asphalt overlay on 8/20/07 on 62nd Street. City crews removed barricades before asphalt was completely dry.

JANICE GROVES, \$3,000.00 for property damaged of 9/6/07 when claimant had sewer backup at 601 S.E. 14th Court resulting from inoperable pumps at S.E. 14th and Scott Streets.

MARK JUMP, \$500.00 for damage to claimant's vehicle on 8/31/07 when shovel fell from City truck and claimant struck it at McKinley Avenue and S.W. 12th Street.

CHRISTINE IRELAN, \$100.00 as payment for property damage on 8/14/07 when garbage truck struck claimant's guard rail at 3131 Sixth Avenue.

KIMBERLY BJUGAN AND MARC HARDING, HER ATTORNEY, \$2,000.00 as settlement of a lawsuit regarding claimant's fall on 7/27/04 on the sidewalk on the north side of Walnut Street, west of 5th Avenue.

KRIS AND KAREN SOMMER, \$971.47 in payment of property damage resulting from obstructed sanitary sewer on 4/25/07 at 1416 Cummins Parkway; STATE FARM INSURANCE AS SUBROGEE OF KRIS SOMMER, \$4,028.53.

MARJORIE WILEY, \$537.79 for damage to claimant's vehicle resulting from incident of 9/21/07 when police officer rear-ended the vehicle on Army Post Road at S.E. 14th Street.

TMC AUTO BODY, \$838.60 in payment of claim of 9/19/07 when Parks employee hit claimant's parked car with a mower at the Nahas pool parking lot, ENTERPRISE RENT A CAR, \$82.12 for a rental car.

BRENDA ROSENBERG, \$1,422.13 in payment of claim of 9/19/07 when rear dual wheels came off City vehicle and struck claimant's car on Army Post Road at Indianola Avenue; mechanic failed to tighten lug nuts.

KINMAN GLASS, \$127.06 for replacement of window resulting from incident of 9/4/07 or 9/5/07 when mower struck manhole and threw steel into claimant's window at 5432 S.E. 26th Court.

KELDON HEUER, \$327.50 in payment of claim of 9/11/06 when claimant found mower in his yard at 723 Thornton Avenue and was advised that if it was not claimed within one year he could keep the mower, but the mower was sold at auction.

ANDREW WIERCK, \$629.88 for repairs to claimant's vehicle that was parked at 3102 Forest Avenue on 9/28/07 and struck by police officer.

KAREN ROLLISON, \$45.00 in payment of claim for damage to lawn at 1105 9th Street on 10/3/07 when police officer was involved in a chase and hit claimant's chain link fence; M.V.P. FENCE, \$447.00 and \$125.00 for repairs to claimant's chain link fence.

RON MUTCHLER, \$196.10 in payment of claim of 10/4/07 for reimbursement of TV report of sewer line at 102 Davis Street; Public Works sent notice to claimant that sewer line had caused a sink hole near the street, but it was the City main that had caused the problem.

DES MOINES WATER WORKS, \$555.00 for repair of water stop box at 3120 30th Street; Public Works crews had installed new curbs in 2006 and damaged the water stop box.

DAVID ISAACSON, \$12.00 for reimbursement of beer that claimant had brought to Blank Golf Course on 7/5/07; alcohol is prohibited on golf course and taken by staff and claimant was told his beer would be returned to him when he left, but it wasn't.

SOMHA LOVAN, \$500.00 for damage to vehicle on 10/22/07 when Park's employee struck co-worker's parked car at the Glendale Cemetery.

WHITFIELD & EDDY LAW FIRM, \$4,000.00 as settlement regarding lawsuit by Recovery in Action concerning a federal lawsuit against the City's Zoning Board of Adjustment for restriction placed on the home for recovering alcoholics and drug addicts at 2220 E. 13th Street.

JEFF AND LISA SHOCKLEY, \$4,215.00 for damage caused to claimant's vehicle on 10/25/07 when police officer pulled from stop sign at SW 9th and Kenyon and struck vehicle; \$113.42 for towing charges.

UNITED STATES POST OFFICE, \$798.50 in payment of claim of 10/24/07 when garbage truck pickup arm struck mailbox unit at 1413 East 40th Street.

WANDA TERRELL, \$400.00 for repair of siding on claimant's house and for repair to wall and drywall resulting from incident of 6/27/07 when claimant had called police after finding shotguns in her yard; officer was retrieving the guns when one accidentally discharged into claimant's house.

PAUL LEINEN AND CALEB WILSON CONSTRUCTION, INC., \$1,650.00 for repair to claimant's concrete block wall at 1532 ML King Parkway resulting from damage by City crews who were poured a new sidewalk in 2006.

CENTRAL IOWA LAWN AND LANDSCAPE, \$456.07 to repair chain link fence that was damaged at 1160 East Army Post Road on 7/13/07 when police officer struck the fence during a chase.

DES MOINES WATER WORKS, \$961.00 for repairs to sidewalk and water stop box that City crews buried while pouring a new sidewalk at 4110 S.E. 11th Street; damage discovered on 7/27/07.

DES MOINES WATER WORKS, \$1,077.00 for repair to water stop box that City crews had damaged when replacing curbs at 1114 East 9th Street; damage discovered 9/12/07.

TIMOTHY NEUGENT, \$150.00 in payment of claim of 9/21/07 when claimant had a downed tree removed; claimant lives adjacent to Oak Grove Cemetery and the tree was on the cemetery side of the property at 3830 SW 30th Street.

WEST BEND MUTUAL INSURANCE COMPANY AS SUBROGEE OF MARK PURCELL, \$5,000.00 for property damage resulting from obstructed sanitary sewer at 6101 Forest Avenue on 4/25/07.

MARIE KEDING, \$200.00 for damaged basketball hoop resulting from incident of 10/25/07 when garbage collector struck the hoop at 3414 S.W. 14th Street.

M.V.P. FENCE, \$497.00 in payment of claim of 10/31/07 when the pickup arm of the garbage truck struck claimant's chain link fence at 436 East Gray Street.

DES MOINES WATER WORKS, \$1,035.00 for repair to water stop box at 2614 Caulder that was damaged by City crews and discovered in February of 2007.

ROD DOUGHERTY, \$220.56 in payment of claim of 6/22/07 when tree limb from tree in the right-of-way fell on claimant's power line at 4228 Kingman Blvd.

TMC AUTO BODY, \$534.60 for repairs to claimant's vehicle resulting from incident of 10/24/07 when mower operator struck car door at 2501 S.E. Maury.

ELDER CORPORATION, \$148.40 for property damage on 9/5/07 when Parks employee mowed oriental garden on Robert D. Ray Drive and struck tripod which held laser equipment.

TMC AUTO BODY, \$259.97 to repair damage to claimant's vehicle which was struck by a rock while Parks employee was mowing on Prospect Road on 8/8/07.

SNAP ON TOOLS OR JAY MCCRACKEN, \$4,800.00 for damages to tool box on 8/20/07; claimant is City employee who drove City truck into work area and struck his tool box at the City garage.

TREVOR CATRON, \$65.00 for property damage on 11/21/07 when garbage collector pulled cable TV wire down with the pick up arm of the truck at 1270 East 36th Street.

C. DAVID PERRET, \$162.00 for property damage to claimant's vehicle on 11/16/07 when garbage truck struck claimant's parked car in the 5300 block of Shriver Avenue.

JANINE HEARD, \$4,024.29 for property damage on 11/3/07 at 3015 SE 17th Street when the sanitary sewer was obstructed with roots.

KEYANNA WILLIAMS, \$5,000.00 for property damage resulting from obstructed sanitary sewer on 11/3/07 at 3017 S.E. 17th Street.

MIKKAH DANIELS, \$4,866.00 for property damage resulting from obstructed sanitary sewer on 11/3/07 at 3019 SE 17th Street.

TMC AUTO BODY, \$159.00 to remove asphalt emulsion from claimant's vehicle; claimant was following City truck on 11/16/07 on the Merle Hay Ramp onto I-80 and load was not secured.

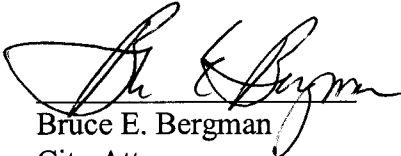
TMC AUTO GODY, \$542.10 to repair vehicle that was damaged on 11/3/07 when firemen dropped stretcher and caused dent and scratches to car that was parked at 5404 S.W. 15th Street.

TMC AUTO BODY, \$879.79 in payment of claim of 11/8/07 when City driver turned into claimant's lane on ML King at Douglas Avenue and struck vehicle.

HAYLEY PORTER, \$1,632.38 to repair vehicle that was damaged on 10/13/07 when parked car was struck by dumpster being removed at the Animal Rescue League.

TIMOTHY WADE FESSLER, \$754.75 in payment of claim for water stop box that was damaged in the 1980's when a sanitary sewer was constructed at 4000 Clinton Avenue; damage was recently discovered.

M.V.P. FENCE, \$250.00 for damage to claimant's fence on 12/4/07 when public works driver damaged the fence while putting down sand at Barratta's Restaurant at 2320 South Union.


Bruce E. Bergman
City Attorney