

★ Roll Call Number

Agenda Item Number

25

Date March 28, 2011

Communication from Legal Department concerning settlements made by Acting City Attorney, not exceeding \$5,000.00.

Moved by \_\_\_\_\_ to receive,  
file and affirm settlements made by Acting City Attorney.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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  
Vicky L. Long Hill  
Steven C. Lussier  
Katharine J. Massier  
Carol J. Moser  
Douglas P. Philip



March 28, 2011

**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:

TMC AUTO BODY, \$458.40 in payment of property damage claim of 9/22/10 when City Inspector struck co-worker's personal car that was parked in the Armory parking lot.

ENTERPRISE RENT A CAR, \$279.68 for rental car expense resulting from incident of 11/1/10 when City driver rear-ended stopped car in the 2100 block of Grand Avenue.

TMC AUTO BODY, \$280.00 in payment of claim of 10/19/10 when Grand Avenue was being repaved and claimant's vehicle received asphalt emulsion on it during the repaving.

MICHAEL T. MCCLISH, \$526.40 for plumber's call, cleaning and labor costs associated with claim of 10/5/10 when sanitary sewer was obstructed at 2501 Holcomb.

ATLANTIC BOTTLING COMPANY, \$3,707.49 in payment of property damage claim of 11/16/10 when parks employee backed into claimant's parked truck at 2945 East University Avenue.

HAROLD RENDER, \$1,756.10 for plumber's call and various property damage resulting from obstructed sanitary sewer in the summer of 2010 at 701 Boston.

TMC AUTO BODY, \$419.00 for repairs to claimant's vehicle; claimant is a fireman whose car was parked at Station 9 and was damaged on 10/27/10 when a dumpster rolled into the vehicle because of heavy winds.

KINMAN GLASS, \$168.00 for damage to claimant's vehicle on 10/11/10 when claimant parked her vehicle at the Airport; demolition of concrete nearby caused chips on the windshield and side glass.

CHARLES BACKSTROM JR., \$1,751.24 for repairs to claimant's vehicle resulting from incident on 9/7/10 when claimant struck tree limb that was extending into street in front of 331 S.W. Thornton.

M.V.P. FENCE, \$392.50 in payment of property damage claim of 11/16/10 when truck driver struck claimant's chain link fence in the alley at 1701 East 24<sup>th</sup> Street.

WILLIAM BRYANT SR., \$848.45 for damaged to vehicle that police officer struck while attempting a right turn at 3607 Ingersoll Avenue on 10/24/10.

KATHLEEN JENKINS, \$285.58 in payment of claim for plumber's call, labor and property damage resulting from obstructed sanitary sewer on 11/9/10 at 3909 Waveland Drive.

TMC AUTO BODY, \$830.90 for damage to claimant's vehicle on 12/3/10 when toter came loose from pickup arm of garbage truck and struck car on ML King Parkway at University Avenue.

VINCENT TRAVIS, \$165.48 in payment of claim for stolen property of City Inspector who parked his city car in the Lugutti parking ramp at 555 5<sup>th</sup> Avenue and it was burglarized on 11/15/10 or 11/16/10.

RICK L. RAMSEY, \$630.09 for property damage claim of 11/19/10 when police damaged door of duplex at 3900 Lower Beaver Road while looking for witness.

FLORENCIO ESTRADA, \$3,575.00 for vehicle damage resulting from incident of 12/12/10 when plow driver slid through stop sign at 43<sup>rd</sup> Street and Madison Avenue and struck claimant's vehicle.

NATIONWIDE INSURANCE AS SUBROGEE OF CHERYL WALTER, \$3,008.90 in payment of claim of 10/5/10 when another claimant failed to see a stop sign on 36<sup>th</sup> Street at Cottage Grove because tree limbs were blocking the sign and claimant struck Ms. Walter's vehicle.

BROWN'S DIRT WORKS, \$3,000.00 in payment of claim regarding a damaged water stop box in June of 2010 at 233 East Jackson.

HAZEL R. BURKETT, \$50.00 for damaged mailbox that was struck by snowplow on 12/12/10 at 1405 Sampson.

ROB SWISHER, \$1,549.09 for property damage and cleanup and labor resulting from obstructed sanitary sewer on 12/12/10 at 3300 S.E. 4<sup>th</sup> Court.

BRENDA COURTNEY, \$771.00 for property damage, cleanup and labor resulting from obstructed sanitary sewer on 12/12/10 at 2712 53<sup>rd</sup> Street.

JILL WILHELM, \$233.02 in payment of claim of 12/23/10 when objects fell from truck on Highway 28 and broke claimant's windshield.

DAVID LITTLE, \$30.00 to replace mailbox that was struck by snowplow in the winter of 2009 at 3250 Park Avenue.

KINMAN GLASS, \$230.65 to replace windshield that was damaged when debris fell from garbage truck on 1/17/11 at Delaware Avenue.

JIM AND KIM LAME, \$100.00 in payment of property damage claim of 1/14/11 when plow truck rear-ended stopped vehicle at Euclid and East 14<sup>th</sup> Street.

STEVE KNOWLTON, \$1,043.74 for repairs to vehicle resulting from incident of 12/31/10 when City truck slid on ice and struck corner of van on Beaver Avenue north of Forest Avenue.

MIKE PARKS, \$44.38 for reimbursement of impound fees resulting from incident of 1/12/11 when claimant's vehicle was impounded from the 1300 block of Randall Place to allow Des Moines Water Works to repair a water line that had burst; police were unable to locate claimant at the time. The City will seek reimbursement from Des Moines Water Works.

MARTIN SEIBERT, \$4,400.00 in payment of claim of 1/18/11 when police officer ran a stop sign and struck claimant at East 4<sup>th</sup> Street at East Court Avenue; ENTERPRISE RENT-A-CAR, \$559.35 for rental car expense.

ERIN MCKINNEY, \$5,000.00 for purchase of a new vehicle resulting from incident on 1/20/11 when meter maid struck claimant on Walnut Street at 15<sup>th</sup> Street when she failed to stop at stop sign; an additional payment for car rental expense and medical expenses will be requested at a future City Council meeting.

NEAL WALTON, \$600.00 for repairs to vehicle that was struck with the pickup arm of a garbage truck on 1/11/11 at 1251 Stewart Street.

QWEST, \$950.24 in payment of property damage claim of 11/1/10 when telephone cable at 1500 McKinley was damaged by City crew using a back hoe.

KINMAN GLASS, payments of \$410.92 and \$82.90 to replace windshield that was damaged on 1/10/11 when snowplow pushed snow from overpass on I-235 at Second Street and broke claimant's windshield.

CAROL SMITH, \$1,873.32 in payment of property damage claim of 1/11/11 when a snow plow struck parked truck at the Pioneer Columbus Community Center.

DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C. TRUST ACCOUNT, \$3,000.00 in payment of claim of 12/1/10 when the Davis Law Firm disputed the validity of a judgment lien for property at 2701 E. 37<sup>th</sup> Court.

DAVE AND SANDI DEERY, \$30.00 to replace mailbox that was damaged by snowplow on 2/2/11 at 2824 East Kenyon.

MICHAEL BUTTERS, \$923.90 in payment of claim of 11/20/10 when police arrested occupant of claimant's vehicle and while being arrested he attempted to pull away from police and fell onto hood of claimant's vehicle.

DANIELLE WARD-WELL, \$1,300.00 for damages to claimant's vehicle on 2/2/11 when snow plow driver backed into stopped car on S.E. 10<sup>th</sup> Street at Thornton Avenue.  
NATIONWIDE INSURANCE AS SUBROGEE OF TOM SHERRARD, \$709.37 in payment of claim of 1/11/11 when claimant struck backing snow plow on Hartford at S.E. 14<sup>th</sup> Street while attempting to pass the plow.

DAVID TRACHTENBERG, \$30.00 to replace mailbox that was struck by snow plow on 2/2/11 at 3514 S.E. 20<sup>th</sup> Street.

TMC AUTO BODY, \$401.20 for repairs to claimant's vehicle resulting from incident of 12/12/10 when plow driver struck parked car at 3521 Center Street; ENTERPRISE RENT A CAR, \$119.84 for rental car expense.

JANA CURTIS-VOLLE, \$949.61 in payment of claim of 12/9/10 when claimant was arrested and her Blackberry cell phone was lost while in police custody.

KRAIG JACKSON, \$1,200.00 for property damage on 12/13/10 when sewer at 1916 East 39<sup>th</sup> Street was obstructed and caused damage; FARMER'S INSURANCE EXCHANGE, \$1,948.52 for cleaning and deductible resulting from this property damage claim.

IOWA STEAK CO., LLC, \$342.13 for repairs to vehicle resulting from incident of 2/2/11 when plow driver struck parked truck on Wall Avenue.

MATTHEW AYALA, \$3,089.03 in payment of claim of 2/2/11 when City driver backed into claimant who was stopped on S.E. 5<sup>th</sup> Street at Trowbridge Street.

TIMOTHY HARTMAN, \$100.00 for property damage claim of 1/12/11 when City Inspector rear-ended claimant's truck on 34<sup>th</sup> Street at University.

MIDAMERICAN ENERGY COMPANY, \$1,074.65 in payment of claim of 8/30/10 when City crews struck electric line at 4900 and 4902 University Avenue.

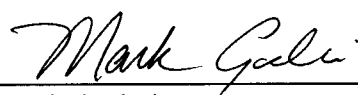
MIDAMERICAN ENERGY COMPANY, \$332.02 for repairs to utility pole at 3812 Shawnee Avenue that was struck by City driver on 11/22/10.

JOSEPH EARL MOSHER, \$428.00 in payment of lost property claim of 12/19/10 when claimant was arrested and taken to jail and his wallet was given to another person by mistake.

GLENNA FRANK AND BRANDON KIMBLE, \$515.11 for property damage, plumber's call, and cleanup resulting from obstructed sanitary sewer on 2/13/11 at 1041 Trisha Avenue.

JEROME BORDEN AND WAYNE LARSON COLLISION SPECIALISTS, INC., \$900.24 for repairs to claimant's vehicle resulting from incident of 2/15/11 when police officer was working off duty at a concert at 2200 48<sup>th</sup> Street; claimant failed to hear and obey an order given by officer so he threw his flashlight at claimant's car; \$58.85 for rental car expense.

DAVID GARZA, \$120.00 for plumber's call and power washing of basement that had a sewer backup on 1/30/11 at 227 Glenview Drive.

  
\_\_\_\_\_  
Mark Godwin  
Acting City Attorney