

★ Roll Call Number

Agenda Item Number

23

Date January 28, 2013

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				
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

Jeffrey D. Lester

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



January 28, 2013

**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, \$2,377.03 for repairs to claimant's vehicle resulting from incident on September 23, 2012 when garbage collector backed into claimant's parked car on 43rd Street at Madison; ENTERPRISE RENT-A-CAR, \$217.54 for rental car expense.

MERCY MEDICAL CENTER, \$1,294.47 in payment of bodily injury claim of July 31, 2012 when a metal chair at Gray's Lake broke and child fell and struck her head.

TMC AUTO BODY, \$626.60 in payment of claim of September 17, 2012 when claimant was rear-ended by police officer on Martin Luther King Parkway at S.W. 5th Street; ENTERPRISE RENT A CAR, \$155.34 for rental car expense; MARK MCCAUNE AND NANCY MCCAUNE, \$1,000.00 as settlement for bodily injury claim.

ENTERPRISE RENT-A-CAR, \$93.21 rental car expense related to claim of August 6, 2012 when Public Works driver struck a car parked on Carpenter Street at 24th Street.

GARY CHELSVIG, \$250.00 for insurance deductible resulting from claim of August 21, 2012 when tree limb fell on claimant's vehicle at 3410 East 8th Street.

LYNETTE BARBOUR, \$818.82 in payment of property damage claim of September 26, 2012 when concrete saw fell from sewer truck and struck claimant's vehicle at 1063 East 14th Place.

IOWA DEPARTMENT OF TRANSPORTATION, \$2,028.47 for property damage claim of September 26, 2012 when City driver backed into parked truck at 2106 Echo Drive.

JENNIFER ANN STODDEN AND BENJAMIN M. STODDEN, AND LAMARCA & LANDRY, P.C., \$4,000.00 in settlement of lawsuit regarding incident on July 19, 2011 when City driver and collided with claimant's vehicle while traveling on East 36th Court at Hull Avenue.

WESTERN NATIONAL INSURANCE COMPANY, \$2,250.00 in settlement of claim of September 30, 2011 when claimant was eastbound on 3000 Vandalia Road when WRA end loader backed from concrete refuse bin and struck claimant's truck.

JAMES LEE HOWARD, \$262.18 in payment of claim regarding incorrect assessment for a rental inspection at 3508 56th Street on August 8, 2008; claimant had declared bankruptcy.

LAURA SOLO, \$500.00 in settlement of lawsuit regarding incident of November 9, 2011 when claimant was arrested and personal belongings were impounded, but were later destroyed.

MIDAMERICAN ENERGY COMPANY, \$673.74 in payment of claim of August 13, 2012 when sewer crew struck gas line at 45th Street and Urbandale Avenue.

TMC AUTO BODY, \$436.40 for repairs to claimant's vehicle resulting from incident on August 29, 2012 when Engineering Inspector rear-ended car at 6th and Holcomb; ENTERPRISE RENT-A-CAR, \$84.34 for rental car expense.

PROFESSIVE INSURANCE COMPANY, \$2,600.00 in payment of claim of October 4, 2012 when claimant purchased vehicle at City auction and it was discovered that vehicle had been stolen; Progressive Insurance Company had paid its insured after its theft so we are reimbursing the insurance company because police failed to find correct VIN on door frame or engine to determine it was stolen.

LITHIA BODY AND PAINT, \$114.48 for property damage caused on October 29, 2012 when Traffic employee backed into claimant's van on Fourth Street at Grand Avenue.

DES MOINES WATER WORKS, \$336.00 in payment of claim regarding incident in 2009 when Engineering Department hired Absolute Concrete to replace sidewalk at 2410 Reynolds Lane; it was discovered in May 2012 that stop box was damaged.

KEMIN INDUSTRIES, \$370.00 for repairs to claimant's fence resulting from incident on October 17, 2012 when snow plow driver was being tested and backed into fence at 2100 Maury Street.

TMC AUTO BODY, \$4,336.10 to repair van that was damaged on October 29, 2012 when traffic employee backed into vehicle on Fourth Street at Grand Avenue.

MIDAMERICAN ENERGY COMPANY, \$312.73 in payment of claim of September 28, 2012 when Public Works crew damaged utility pole during curb replacement at 712 Oak Park.

MAJOR MCCASLAND, \$60.00 in payment of claim regarding incident in December 2011 when claimant found a bike and turned it into police; he paid a \$10.00 filing fee and was told he could claim the bike after a year if no one claimed it, but it was sold at auction.

TMC AUTO BODY, \$2,139.75 for repairs to vehicle resulting from incident of December 13, 2012 when Public Works employee backed into claimant's car on Watrous Avenue; ENTERPRISE RENT A CAR, \$155.35 for rental car expense.

JAMIE BECKLER, \$1,038.41 in payment of claim of December 14, 2012 when Public Works crew was patching road cracks and struck vehicle with air wand at 4213 Urbandale Avenue.

ROBERT FELICE, \$5,000.00 in payment of property damage claim regarding overland flooding at 4236 S.E. 7th Street on June 6 and 8, 2008, April 27, 2010, June 27, 2010, August 10, 2010, May 6, 2012 and June 15, 2012.

RONALD B. DAVIS, \$5,000.00 for property damage caused by overland flooding at 4230 S.E. 7th Street on June 6 and 8, 2008, April 27, 2010, June 27, 2010, August 10, 2010, May 6, 2012 and June 15, 2012.

PAUL AND KATHY KLONGLAN, \$30.00 in payment of claim for damaged mailbox that was struck by a snowplow on December 20, 2012 at 2637 East 42nd Street.

DEBRA SPEIRS JOHANN, \$2,457.13 for repairs to claimant's vehicle that was rear-ended by Public Works employee on East 4th Street at ML King Parkway on December 6, 2012.

SCOTT THOMPSON, \$450.50 in payment of claim of December 20, 2012 when snow plow turned from alley into claimant's back yard and struck claimant's boat seat.

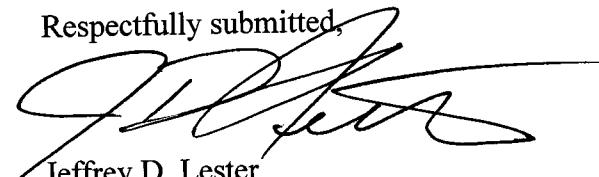
SHAREN LYTTLE AND JAMES LYTTLE, INDIVIDUALLY AND AS HUSBAND AND WIFE, \$1,200.00 in payment of bodily injury claim of December 16, 2011 when claimant stepped from her car and tripped on a piece of plastic landscape edging adjacent to the curb at 3623 6th Avenue and injured her back, hip and knee.

CITY OF URBANDALE, \$993.00 for property damage resulting from incident of January 3, 2013 when plow driver misjudged the width of the street and hit claimant's vehicle in the 1200 block of East 14th Street.

WADE ANTHONY ELGIN, \$226.20 for repair to claimant's rear window resulting from incident of January 3, 2013 when tire chains on public works truck came loose while driving on S.E. 14th Street at Harriett Street and struck the vehicle's window.

DEERY BROTHERS CHEVROLET, \$3,883.85 for damages to claimant's vehicle; police officer struck vehicle while making turn from inside lane on S.E. 14th Street at East King Avenue on December 23, 2012.

Respectfully submitted,



Jeffrey D. Lester
City Attorney