



Roll Call Number

Agenda Item Number

36

Date July 15, 2019

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

FORM APPROVED:

MOVED BY \_\_\_\_\_ TO RECEIVE, FILE AND AFFIRM SETTLEMENTS MADE BY CITY ATTORNEY

Handwritten signature of Jeffrey D. Lester, City Attorney

Jeffrey D. Lester
City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and 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**  
Lawrence R. McDowell  
Carol J. Moser  
Kathleen Vandetpool

**SENIOR LITIGATORS**  
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**ASSISTANT CITY ATTORNEYS**  
Roger K. Brown  
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July 15, 2019

**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:

**CHRISTEN AND CHRISSY GRECO**, \$2,379.40 for incident in July 2016 when City failed to connect the claimant's lateral to the City's sewer main at 1004 Davis Avenue.

**JUSTIN ALLISS**, \$55.81 for lost property resulting from incident of October 16, 2016 when claimant's property was stolen from his vehicle and recovered by the police; the items were disposed of rather than being returned to the claimant.

**SEVMEA CHE**, \$4,999.00 in payment of personal injury claim of November 21, 2018 when police officer failed to yield the right-of-way to claimant at East Hull Avenue and Sampson Street.

**LARRY AND JUDITH CRUIKSHANK**, \$30.00 (ordinance claim limit) for mailbox that was damaged by a snowplow in the winter of 2019 at 3728 Indianola Avenue.

**SIDNEY JOHNSON**, \$949.00 for a property damage claim of January 8, 2019 when a blockage in the City main caused a sewer backup into claimant's basement at 2950 Hubbell Avenue.

**SEDGWICK AS SUBROGEE FOR THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS**, \$3,880.83 in payment of property damage claim of January 19, 2019 when snowplow struck claimant's legally parked car in the 400 block of Tonawanda Drive.

**MIDAMERICAN ENERGY**, \$1,723.92 for property damage claim of January 23, 2019 when snowplow struck utility pole at 739 Hart Avenue.

**PATRICIA PAPENHEIM**, \$30.00 (ordinance claim limit) for mailbox that was damaged by a snowplow on February 1, 2019 at 5224 Valdez Drive.

RONALD AND DAWN HENDERSON, \$30.00 (ordinance claim limit) for damaged mailbox that was struck by a snowplow on February 7, 2019 at 4415 Park Lawn Drive.

MIDAMERICAN ENERGY, \$2,314.94 for damage to utility pole on February 12, 2019 when recycling truck slid on ice and snow into utility pole at 3423 East 30<sup>th</sup> Street.

DAVID AND DEBORAH ZELLER, \$30.00 (ordinance claim limit) for damaged mailbox that was struck by a snowplow on February 12, 2019 at 7004 Sweetwater Drive.

CHARLES GABUS FORD, \$3,159.21 for repairs to claimant's vehicle and ENTERPRISE RENT-A-CAR COMPANY MIDWEST, LLC, \$419.94 for rental car expense relating to claim of February 12, 2019 when a snowplow struck legally parked vehicle at 3407 57<sup>th</sup> Street.

CHARLES GABUS FORD, \$3,957.49 for repairs to claimant's vehicle resulting from incident of February 14, 2019 when concrete from the roof of the 9<sup>th</sup> and Locust ramp fell onto claimant's vehicle.

REBECCA FALLIS, \$30.00 (ordinance claim limit) for claim of February 17, 2019 when snowplow struck claimant's mailbox at 2319 Stanton.

CODY KERN, \$681.89 for property damage when snowplow struck claimant's parked vehicle at 1202 Rittenhouse Road on February 17, 2019.

KANE HALSEY, \$1,066.10 in payment of property damage claim of February 17, 2019 when a snowplow lost control on the ice and slid into illegally parked vehicle at 2235 E. 34<sup>th</sup> Street; claim was reduced by 50% due to illegal parking by claimant.

FINISH LINE BODY & PAINT, \$2,138.79 for repair to vehicle, and ENTERPRISE RENT-A-CAR COMPANY MIDWEST, \$137.02 for rental car expense associated with claim of February 17, 2019 when snowplow struck legally parked vehicle at 719 19<sup>th</sup> Street.

KOREY MILLER, \$11.50 for reimbursement of claimant's driver's license that the police department lost on February 17, 2019 during an arrest at Beer Can Alley Court Avenue.

ALLSTATE INSURANCE CO., AS SUBROGEE FOR CHRISTOPHER FOSTER, \$2,323.86 for damage to claimant's vehicle on February 20, 2019 when snowplow struck legally parked car at 4135 55<sup>th</sup> Street.

TERRY NITTLER, \$30.00 (ordinance claim limit) for payment of mailbox that was struck by a snowplow on February 20, 2019 at 701 East Virginia.

JAMES FISCUS JR., \$30.00 (ordinance claim limit) in payment of claim of February 25, 2019 when snowplow struck claimant's mailbox at 2822 River Ridge Road.

PATRICK BECKER, \$1,510.77 in payment of a property damage claim of February 26, 2019 when there was a sewer backup into claimant's basement at 249 East Titus.

KARL MCLAIN, \$76.53 in payment of claim of March 7, 2019 when snowplow struck illegally parked vehicle at 3834 Crestmoor; claim was reduced by 50% due to illegal parking by claimant.

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SCOTTY'S BODY SHOP, \$552.26 in payment of property damage claim of March 7, 2019 when condensation dripped rusty water from steel beams onto claimant's vehicle at the 8<sup>th</sup> and Locust Parking Garage.

RAUL OSORIO, \$273.48 for property damage claim of March 13, 2019; due to temperature change, the steel beams in the ceiling of the 8<sup>th</sup> and Locust Parking Garage had condensation which dripped rusty water onto claimant's vehicle.

AMERICAN FAMILY INSURANCE AS SUBROGEE FOR FREDERICK HUNTER, \$4,561.71 in payment of claim regarding incident on March 7, 2019 when snowplow struck legally parked car on Watrous Avenue near 25<sup>th</sup> Street.

TERI WITT-COSPER, \$3,238.83 in payment of claim of March 31, 2019; the City did not properly connect the lateral to the main at 1028 S.E. 10<sup>th</sup> Street.


TROY CLARK, \$295.60 to reimburse impound fees regarding claim of April 1, 2019 when City improperly impounded claimant's vehicle at 3313 E. 53<sup>rd</sup> Court.

RICK BOGGESE, \$164.31 for property damage at 3813 Lay Street caused by a sewer backup on April 5, 2019.

NETRA PARIYAR AND KRISHNA DARJEE, \$485.54 for property damage claim of April 9, 2019 when snowplow was passing claimant's vehicle on Watrous Avenue at S.E. 14<sup>th</sup> Street, got too close and struck the driver's side mirror.

TOMMY RICE, \$1,624.56 for vehicle damage resulting from incident on May 30, 2019 when police officers were chasing a suspect on foot; the officers apprehended the suspect on the hood of claimant's car at 909 East 28<sup>th</sup> Court.

Respectfully submitted,



Jeffrey D. Lester  
City Attorney