

★ Roll Call Number

Agenda Item Number

26

.....
Date..... March 26, 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				

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

MOTION CARRIED

APPROVED

.....
Mayor

March 26, 2007

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:

Refund of liquor license fees paid in 2003 and 2004 for various stores in Des Moines; decided by an Iowa Supreme Court Decision: CASEY'S GENERAL STORES, INC., \$1,017.50; KUM & GO, L.C., \$3,785.00; GIT-N-GO CONVENIENCE STORES, INC., \$4,500.00 and \$250.00; HY-VEE, INC., \$2,750.00; FOODS, INC., d/b/a DAHL'S FOODS, \$2,367.50; QUIK TRIP CORPORATION, \$3,867.50; WAL-MART, \$267.50; FRANCIE'S, \$350.00; MICHAEL'S RESTAURANT & LOUNGE/MIKE BAIER, \$350.00; KELLEY MANNING, \$350.00.

BRIAN BERRY, \$150.00 for damaged to claimant's lawn at 411 SE Watrous resulting from incident of 9/5/06 when crews cleaned property as part of a public nuisance, but yard was damaged with deep tire ruts.

BRUCE VAN GUNDY, \$3,598.89 in payment of claim for repairs and landscaping due to sink hole discovered 9/2/06 in claimant's yard at 5114 SW 14th Street; City had previously replaced main but the original line had cracked and settled and caused the sink hole.

SYLVIA HELEN CROOK, \$3,908.08 in payment of property damage claim of 10/12/06 when police officer backed from parking lot on South Union at Watrous Avenue and struck claimant, causing vehicle damage; \$215.86 for rental car expense.

JIM BISHOP, \$85.00 for repair to claimant's vehicle resulting from incident of 8/11/06 when mower threw an item into vehicle on Polk Blvd., south of University Avenue.

KENN A. MILLER, a single person, \$3,000.00 for lost wages and hospital bill resulting from incident of 10/9/06 when claimant tripped on large tree root that had been exposed while Public Works crew was installing new curbs at 951 28th Street.

DUSTIN MOGLE, \$1,089.00 for property damage at 7111 S.W. 17th 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.



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, 1976, 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

EMILY GOULD CHAFA

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

SHANNON EVERS, \$1,264.50 in payment of rental car expense and insurance deductible regarding claim of 9/26/06 when City driver pulled from stop on Forest Avenue at 31st Street and struck claimant's vehicle.

CHAD LEGERE, \$855.47 for property damage resulting from obstructed sanitary sewer on 1/19/06 at 4110 East Garden Avenue.

CALVIN DEAN, \$1,576.00 for property damage resulting from obstructed sanitary sewer on 10/16/06 at 4410 54th Street; PRO DRY, \$1,965.72 for clean up, sanitizing and carpet removal.

JUSTIN AND JAN HAZEBROEK, \$2,000.00 in payment of claim of 11/28/06 when police officer was responding to a chase and was struck by claimant on Meredith at Merle Hay; officer activated his emergency lights but placed his siren in "standby" mode and claimant could not have seen police car.

R. JONES BODYPRO, \$290.34 for property damage claim of 3/28/06 when city driver turned from High Street onto Ninth Street and struck claimant's vehicle.

STEVE RICE, \$618.53 for damage to claimant's vehicle resulting from incident of 8/1/06 when police officer struck claimant was stopped at a stop sign on South Union at Kenyon.

MARK SCHAUL, \$60.00 for property damage on 11/28/06 when claimant caught golf bag in conveyor belt at the Airport.

DES MOINES ROCK OF AGES MEMORIALS, \$165.00 for damage discovered in October 2006 to vase at the Glendale Cemetery.

TMC AUTO BODY, \$2,655.86 for repair to claimant's vehicle resulting from incident of 11/19/06 when police officer struck claimant's vehicle at East 7th Street and Walnut Avenue; DALE WARNER, \$461.58 for reimbursement of car rental expense paid in this claim.

DONNA DUELING, \$25.00 for replacement of solar lights that Public Works crew broke while replacing garbage toter at 5707 Terrace Drive on 11/25/06.

MARCIE ROMINE, \$100.00 for damage to claimant's shed on 11/1/06 by Public Works crews cleaning a public nuisance property at 1321 East 22nd Street.

DAHL'S PHARMACY, \$56.67 in payment of prescription resulting from incident of 11/14/06 when tree limb was struck by garbage truck pick up arm at 3416 East 7th Street and the tree limb fell on claimant.

WESLEY EATON, \$2,629.39 as settlement of a workers' compensation claim arising from incident on 6/16/06 when City worker twisted knee while getting out of a City vehicle.

LAURA MARKLE, \$20.00 for replacement of eyeglass lens resulting from incident of 12/19/06 when claimant was a passenger in a vehicle that was stopped by police at Hull Avenue and East 14th Street and was searched by a K-9 for possible drugs; the K-9 stepped on eyeglasses and a lens was broken.

ANTHONY AND LACEY STEPHENS, \$2,319.73 in payment of claim of 11/1/06 when Public Works employee backed into claimant's parked vehicle at 4140 52nd Street.

CHI V. COX, \$687.48 for expenses and property damage resulting from incidents of 11/25/06 and 11/27/06 when sanitary sewer was obstructed at 3906 Columbia Street.

CMK PLUMBING, INC., \$5,000.00 for repair of water stop box and water supply line found damaged on 9/19/06 at 1530 Wilson Avenue that was damaged by Public Works crews.

JAMES AND CHERYN HUBER, \$1,136.46 for property damage and cleanup resulting from obstructed sanitary sewer on 9/20/06 at 3824 S.W. 29th Street.

TERRY KEMP, \$1,000.00 in payment of workers' compensation claim of 3/22/04 when City employee reported ankle and foot pain from getting in and out of his truck while repairing mailboxes; the injury resulted in surgery.

ELIZABETH GRISMER, \$375.71 for replacement window resulting from incident of 12/29/06 when claimant's windshield was damaged by object that fell from Public Works truck at East Sixth and Court Avenue.

RITCHIE HALL, \$60.00 to replace claimant's mailbox that was struck by snow plow on 1/15/07 at 3919 E. 42nd Street.

LETRICE PATTON AND ANTHONY BROOM, \$4,351.48 for property damage and cleanup of property at 621 and 623 East McKinley resulting from obstructed sanitary sewer on 12/31/06.

SUSAN CRANDALL, \$30.00 in payment of claim of 1/15/07 when City snowplow struck claimant's mailbox at 3511 S.W. 28th Street.

JEFF AND JULIE RIES, \$30.00 to replace mailbox that was hit by City snowplow on 1/15/07 at 334 East Park Avenue.

MANDY REIDBURN, \$103.74 for reimbursement of impound fees resulting from incident of 12/23/06 when claimant's vehicle was impounded during an investigation of a drive-by shooting; police could not confirm that car was connected to this case.

CHRISTINE MCVEY, \$30.00 to replace mailbox that plow struck on 1/15/07 at 334 East Park Avenue.

JOHN AND KIM LEPLEY, \$678.38 for repairs to claimant's vehicle resulting from incident of 1/2/07 when Public Works employee backed into parked car in the 2400 block of East Grand Avenue.

FARMER'S INSURANCE COMPANY AS SUBROGEE OF STANISLAWA LIRO, \$2,226.41 for property damaged claim of 6/15/06 when sanitary sewer was obstructed at 6/15/06 at 5706 S.W. Fourth Street.

CARPENTR EROSION CONTROL, \$2,160.56 for repair of property in the 3900 block of ML King, Jr. Parkway that was being prepped for a new bike path; two individuals have been ordered by the Court to pay restitution to the City for damage caused by four-wheeling on the property.

GERALD BOWMAN, \$30.00 for replacement of mailbox damaged by City snowplow on 1/21/07 at 5624 S.W. 5th Street.

ANTHONY FATINO, \$30.00 in payment of claim of 1/21/07 when City snowplow struck claimant's mailbox at 2900 Park Avenue.

DES MOINES WATER WORKS, \$555.00 in payment of claim for water stop box damage discovered 10/20/06; City crews damaged the box at 1460 Fifth Avenue during sidewalk and curb replacement.

SCOTT SEVEDGE, \$125.00 for lost video camera resulting from incident of 12/9/06 when claimant's vehicle was impounded after he lent it to friends who were involved in a high speed chase with police that ended at Douglas Avenue and Lay Street; the vehicle was impounded and the police inventoried a video camera that was missing when claimant picked up the vehicle from the towing company.

DENNIS W. GIBSON, \$34.66 in payment of claim of 1/22/07 when Forestry crew broke a window and screen at 3318 Center Street while removing a tree from the right-of-way.

BRAD'S COLLISION CENTER, INC., \$4,873.56 for repairs to claimant's van that was struck by snow plow driver on 1/21/07 at 5436 SE 26th Court; PDA, INC., \$80.00 for damage appraisal of damaged van.

MEGAN MIRAS, \$943.43 in payment of claim of 1/27/07 when a plow driver backed into parked car at S.E. 31st Street and Hart Avenue.

BRENDA KLINGER, \$1,200.00 for bodily injury claim and lost wages resulting from incident of 1/23/07 when City driver pulled from parking spot at East 25th Street and Capital Avenue and struck claimant's vehicle; DON YOUNG, \$1,383.87 for property damage resulting from the incident.

RON BEARD, \$66.75 for property damage resulting from incident of 1/24/07 when City was using vector truck in response to sewer backup at 1207 Lewis Avenue which caused back up at 1209 Lewis Avenue; PRO DRY, \$561.80 for clean up of property at 1209 Lewis Avenue.

CENTRAL IOWA MONUMENT, \$160.00 to replace a vase and two crosses that were damaged by mowing operations in the Glendale Cemetery; damage was discovered 10/21/06.

JENNIFER J. HOWE, \$698.32 for property damage at 1207 Lewis Avenue on 1/16/07 caused by obstructed sanitary sewer.

DANIEL WINKEL, \$1,457.30 in payment of claim of 1/30/07 when Housing employee struck claimant's parked van in the 600 block of Broad Street.

BEVERLY R. ROBINSON, \$4,205.50 for property damage resulting from fiber optic cables blocking the City main which caused backups at 1625 Garfield Avenue on 1/29/06, 2/11/06 and 2/19/06.

DAN BURKE, \$98.44 for reimbursement of impound fees resulting from incident on 2/7/07 when claimant was trying to extricate his truck from a hole in the street at East Euclid and East 29th Street and police officer had vehicle towed.

MARY KINNEY, \$56.15 to replace mailbox that was damaged on 2/24/07 when a snowplow struck it at 1361 Porter Avenue.

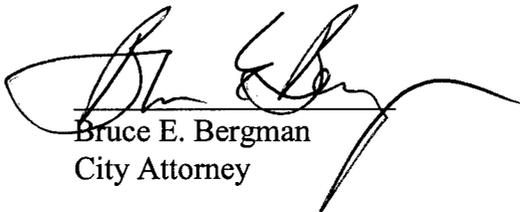
WILLIAM SCOTT, \$30.00 for mailbox that was damaged by snowplow on 2/25/07 at 3018 East Titus.

ABU HAJI ABU, \$1,978.48 for damages to claimant's vehicle resulting from incident of 3/2/07 when snowplow slid into parked car in the 100 block of 23rd Street.

JOHN FICHTNER, \$974.84 to repair vehicle that City plow struck on 2/14/07 at 1103 Walker.

KEON PATTON, \$232.60 in payment of claim of 11/15/06 when thieves broken into barbershop at 852 East Hull Avenue and stole eight left shoes which they later discarded; police found six shoes, but discarded them.

SHERI PATTON, \$450.00 for property damage resulting from incident of 11/30/06 when Fire medics damaged a bed, lights and a doorjamb during ambulance call to 3501 SE 19th Court.



Bruce E. Bergman
City Attorney