

★ Roll Call Number

Agenda Item Number

24

Date April 9, 2012

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				

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.

MOTION CARRIED

APPROVED

Mayor

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



April 9, 2012

**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, \$2,731.46 in payment of claim regarding incident on November 16, 2011 when solid waste truck pulled from stop sign and struck claimant's vehicle on Easton at East 28th Street; ENTERPRISE RENT A CAR, \$497.21 for rental car expenses.

ENTERPRISE RENT A CAR, \$155.34 for rental car expense regarding claim of October 6, 2011 when City driver rear-ended stopped vehicle on Hubbell Avenue at 34th Avenue, N.W.

CATHY JONES, \$397.10 for repairs to claimant's vehicle resulting from incident of November 22, 2011 when garbage truck backed into stopped vehicle on S.E. 5th and Thornton; ENTERPRISE RENT-A-CAR, \$61.04 for rental car expense.

SHENANDOAH COMMUNITY SCHOOL, \$878.32 in payment of claim of December 7, 2011 when City driver changed lanes on University Avenue at 55th Street and struck claimant's vehicle.

JESSICA SMITH AND TMC AUTO BODY, \$502.73 in payment of claim regarding incident on November 11, 2011 when solid waste truck was parked on Muskogee east of 42nd Street; truck's door was not secured and when claimant drove by the door swung open and struck her vehicle.

RONEY AND STEPHANIE TORRES, \$2,500.00 for property damage claim regarding incident of January 7, 2012 when police officer struck claimant's vehicle on Jefferson Avenue at 11th Street.

MARY HOLT, \$2,904.16 in payment of claim resulting from incident on December 21, 2011 when sewer at 4152 57th Street backed up and caused property damage.

PROGRESSIVE INSURANCE AS SUBROGEE OF R. THOMAS, \$2,389.62 for property damage claim of November 26, 2011 when garbage truck struck parked car in the 1000 block of 57th Street.

KINMAN GLASS, \$543.81 to replace window that was broken at 101 4th Street on December 3, 2011 when police officer returned gunfire.

MARK AND GENA LEWIS, \$437.10 in payment of property damage claim regarding incident of January 17, 2012 when plow driver struck van at 4030 Lay Street.

ROWAT CUT STONE & MARBLE COMPANY, \$2,380.20 for property damage to 9th and Grand Avenue Park Ramp. On June 30, 2010 Jordan Armstrong struck the ramp and damaged pillar. The City collected \$2,380.20 from his insurance company for the damage. Rowat Cut Stone & Marble Company made the repairs to the damaged pillar and the City is now paying them for the repairs.

M.V.P. FENCE, \$593.00 for repairs to chain link fence at 740 Cherokee Avenue that was struck by a plow driver on January 17, 2012.

KEVIN HOLT, \$100.00 in payment of claim regarding incident of December 21, 2011 when garbage truck driver struck stone pillar at 4250 Grandview Avenue.

GWENDOLYN SMITH, \$1,022.70 for repairs to vehicle resulting from incident of January 9, 2012 when Parks employee pulled from stop sign on Scott Avenue at S.E. 18th Street into path of claimant's vehicle; KARL CHEVROLET, \$494.95 for additional vehicle damage found after the initial repair.

WESTOVER FUNERAL HOME, \$4,900.00 in settlement of a property damage claim for a sewer backup on August 25, 2011 at 6337 Hickman Road. Iowa Signal, a contractor for the City of Windsor Heights, damaged the sewer line during a street light project at the intersection of Hickman and Westover. The City of Windsor Heights will contribute \$3,000.00 and Iowa Signal will contribute \$6,529.78.

KIR ZUOR, \$3,137.60 for property damage regarding incident of February 4, 2012 when plow driver struck parked van at 1331 Washington Avenue.

LINDSEY O'NEEL, \$3,202.75 in payment of property damage claim of December 21, 2011 when there was a sewer backup at 4154 57th Street.

NORMAN MANDELBAUM, \$1,213.28 for repairs to claimant's vehicle resulting from incident of February 4, 2012 when plow truck struck vehicle on Ingersoll Avenue at 28th Street.

JOHN T. HEMMINGER LAW OFFICE TRUST ACCOUNT, \$2,500.00 as settlement of lawsuit regarding incident of January 29, 2011 when inspector and contractor on a project at 600 Chaffee Road assumed they had encountered an abandoned sewer line when in fact it was not abandoned; the line was severed and a backup occurred, causing property damage. The City offered to supply a new manhole and settle the lawsuit for \$2,500.00.

DON AND PAT WILLETT, \$85.00 to replace a mailbox that police officer backed into on January 20, 2012 at 1710 East Diehl Avenue.

DON BRYAN, JR., \$40.00 in payment of claim of January 27, 2012 when claimant was installing a garage door at 1816 Pleasant Street and garbage collector hit his utility trailer.

MIDAMERICAN ENERGY COMPANY, \$176.44 for damage to utility pole on May 24, 2011 when Public Works crews were spreading rock and 10596 Beardsley Street and hit the pole.

CHRISTIAN SMITH, \$73.58 to replace mailbox that was struck by snow plow on February 4, 2012 at 2413 East 42nd Street.

EUEGENE A. WESSEL, \$1,070.51 in payment of claim regarding incident of February 24, 2012 when snow plow driver struck parked car at 2909 4th Street.

TRAVELERS, \$2,569.28 in payment of claim of January 25, 2012 when Housing driver backed up on Douglas Avenue south of 6th Avenue and struck claimant's vehicle.

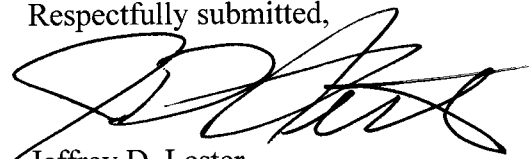
RORY AND PIPER KUHLJUERGEN, \$1,053.32 for damages to claimant's vehicle on February 26, 2012 when a gate at Gray's Lake wasn't properly secured and blew into claimant's truck.

VERN UCHYTIL, \$3,567.27 in payment of claim regarding incident of October 17, 2011 when Public Works made repairs to sewer at 3600 57th Street and caused damage to water line.

HENRY BATES, \$400.68 for repairs to claimant's vehicle resulting from incident on March 6, 2012 when police officer was driving "take home" unit and struck claimant's vehicle on J Street in Indianola.

DON FRIEND, \$1,100.00 in payment of claim of February 24, 2012 for damage to driveway and landscaping at 2607 Hickman Road; snow plows have repeatedly pushed snow onto property and turned around in claimant's driveway.

Respectfully submitted,



Jeffrey D. Lester
City Attorney