

DES MOINES CITY COUNCIL MEETING

March 20, 2006

4:30 P.M.

SPECIAL PRESENTATIONS – 4:15 PM

Iowa Special Olympics/Cessna Airlift Presentation – Craig Smith, Director, Des Moines International Airport

PROCLAMATIONS – 4:15 PM

Young Professionals Day

INVOCATION: Pastor Loren Strait
Glen Echo Christian Church

- 1. ROLL CALL:
- 2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED:

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***Note:** These are routine items and will be enacted by one roll call vote without separate discussion unless someone, Council or public, requests an item be removed to be considered separately.

- 3. APPROVING CONSENT AGENDA – items 3 through 50:

LICENSES AND PERMITS

- 4. [Approving](#) Alcoholic Beverage Applications for the following:

NEW APPLICATIONS

(A)	DOUBLE DEUCE	2222 FOREST AVE	C Liquor
(B)	ELREY BURRITOS II Liquor	2905 HUBBELL AVE	C

(C) KUM & GO #209 3400 SE 14TH ST C Beer

RENEWAL APPLICATIONS

(D) BASIL PROSPERI 407 E 5TH ST B Wine
(E) CHICAGO SPEAKEASY 1520 EUCLID AVE C Liquor
(F) DAHLS FOODS 3425 INGERSOLL AVE E Liquor
(G) GERRIS 232 E 30TH ST C Liquor
(H) GIT N GO STORE #5 2700 INDIANOLA AVE C Beer
(I) GRANDVIEW GOLF COURSE 2401 E 29TH STREET B Beer
(J) GREAT MIDWESTERN CAFE 909 ROBERT D. RAY DR C
Liquor
(K) HAIRY MARYS 2307 UNIVERSITY AVE C Liquor
(L) HAWKEYE ELKS LODGE #160 1401 WALKER ST C Liquor
(M) HIGHLAND PARK COUNTRY 518 EUCLID AVENUE C
Liquor
(N) HY VEE FOOD STORE #3 3221 SE 14TH ST E Liquor
(O) HY VEE WINE & SPIRITS 2310 HUBBELL AVE E Liquor
(P) IOWA BEEF STEAK HOUSE 1201 E EUCLID AVE C Liquor
(Q) JAVA JOES COFFEEHOUSE 214 4TH ST C
Beer/Wine
(R) JOHNNYS ITAL STEAKHSE 6800 FLEUR DR B Liquor
(S) KUNG FU TAP & TACO 210 INDIANOLA AVE C Liquor
(T) LCS CORNER 344 E JACKSON AVE C Liquor
(U) NAT FOOD MART #1 3804 HUBBELL AVE C Beer
(V) ~~NEW ORIENTAL FOOD STORE 515 E GRAND AVE C Beer~~
(W) NUT POB RESTAURANT 3322 INDIANOLA AVE C
Beer/Wine
(X) SHIE CONCESSION 3000 E GRAND AVE B Beer
(Y) SUNRISE TAP 4155 EASTON BLVD C Liquor
(Z) WELLMANS PUB 2920 INGERSOLL AVE C Liquor
(AA) WEST END LOUNGE 2309 FOREST AVE C Liquor

OUTDOOR SERVICE APPLICATIONS

(BB) COURT AVENUE BREWING 309 COURT AVE C Liquor
Temporary outdoor service area in conjunction with Drake Relays
Celebration on April 28, 2006.
(CC) HIGH LIFE LOUNGE 200 SW 2ND ST C Liquor
Adding permanent outdoor service area. Pending approval of Building and
Zoning Departments.
(DD) OVATIONS FOOD SERVICES 233 CENTER ST C Liquor

Temporary outdoor service area in conjunction with Aerosmith Concert on March 23, 2006. Pending approval of Building, Electrical, Fire and Zoning Departments.

5. [City](#) Clerk to issue Cigarette Licenses.
6. [City](#) Clerk to issue Coin Operated Machine Licenses.

PUBLIC IMPROVEMENTS

7. [Ordering](#) construction of Westchester Park Improvements – Phase 3- Receiving of Bids, (4-11-06), and Setting Date of Hearing, (4-24-06). (Construction Estimate-\$222,650).

[\(Council Communication No. 06-158\)](#)

8. [Approving](#) Design Agreement with U.S. Army Corp of Engineers for design of the Des Moines and Raccoon Rivers Project for Flood Protection, not to exceed \$298,000.

[\(Council Communication No. 06-143\)](#)

9. [Approving](#) professional services agreement with Veenstra & Kimm, Inc. in conjunction with The Ingersoll Run Basin Master Plan Study, not to exceed \$199,600.

[\(Council Communication No. 06-144\)](#)

10. Approving Private Construction Contracts for the following:
 - (A) [Sanitary](#) Sewer Improvements between McAninch Corporation and Sterling Trace Development LLC in Sterling Trace Plat 2.
 - (B) [Storm](#) Sewer Improvements between McAninch Corporation and Sterling Trace Development LLC in Sterling Trace Plat 2.
 - (C) [Paving](#) Improvements between Nuckolls Concrete Services, Inc. and Sterling Trace Development LLC in Sterling Trace Plat 2.
 - (D) [Paving](#) Improvements between Hansen Company and Striggles Legacy II, LLC in Ingersoll Avenue, 17th – 18th Streets.
11. [Approving](#) permission to sublet from various contractors certain items on Public Improvement Projects.

12. Accepting completed construction and approving final payment for the following:
 - (A) [Jensen](#) Construction Co. – BNSF Railroad Bridge Removal.
 - (B) [Van Hauen](#) & Associates, Inc. – Four Mile Trunk Replacement Sewer.
 - (C) [Spring](#) Lake Construction – Easter Lake Retention Basins Wetland Mitigation.
 - (D) [Reilly](#) Construction Co., Inc. & Affiliates – Easter Lake Retention Basins – Phase 2.

SPECIAL ASSESSMENTS

13. [Levying](#) assessments for costs of Nuisance Abatement-NAC Emergency Orders (Community Development) for Schedule No. 2005-24.
14. [Approving](#) deletion of NAC-Emergency Assessments at 2906 Des Moines Street.

LAND/PROPERTY TRANSACTIONS

15. [Approving](#) final plat for Woodside Estates West Plat No. 3 in Polk County, located in the 2-mile review area, north of NW 54th Avenue and south of NW 57th Place.

[\(Council Communication No. 06-138\)](#)
16. [Approving](#) tax abatement application from 2003 for property at 2600 Bent Ridge Court.

[\(Council Communication No. 06-137\)](#)
17. [Approval](#) of two additional tax abatement applications from 2005 for property located at 5105 S.E. 27th Street and 2411 Hart Avenue.

[\(Council Communication No. 06-139\)](#)
18. [Approving](#) payment of Condemnation Award for acquisition of property at 4600 Fleur Drive for McKinley Avenue Reconstruction Project, \$2,000.

[\(Council Communication No. 06-157\)](#)

19. [Authorization](#) to proceed with acquisition of the necessary right-of-way and easements for the Twana Bel-Aire Relief Storm Sewer project.
20. [Authorization](#) to proceed with acquisition of the necessary right-of-way and easements for the Leetown Creekway Wood Box replacement project.

BOARDS/COMMISSIONS/NEIGHBORHOODS

21. [Approving](#) appointment of additional member, Marian Gelb from the Park and Recreation Board to the Highway 5 and North River Master Plan Steering Committee.
22. [Approving](#) appointments of District Chief Kenneth Danley and Captain William Jones as voting and alternate members to the Warren County E911 Joint Service Board.
23. Approving the following recommendations for reappointments from Mayor Frank Cownie:
 - (A) [John](#) A. Brooks to the Civil Service Commission, Seat 3, for a four-year term commencing April 1, 2006 to expire April 1, 2010.
 - (B) [Jeffrey](#) Hall to the Civil Service Commission, Seat 4, for a four-year term commencing April 1, 2006 to expire April 1, 2010.
 - (C) [James](#) E. O'Daye, II to the Human Rights Commission, Seat 1, for a three-year term commencing April 1, 2006 to expire April 1, 2009.
24. [Communication](#) from Phillip James advising of his resignation from the Des Moines Park and Recreation Board effective immediately.

COMMUNICATIONS FROM PLANNING AND ZONING

25. [Regarding](#) City initiated request to vacate a segment of S.E. 27th Court between E. Railroad Avenue and the Norfolk Southern Railway.
26. [Regarding](#) request from Imperial III Partnership for approval of a preliminary subdivision plat for "Ellis Heights Plat 2" located at 5049 N.E. 14th Street in unincorporated Polk County, for subdivision review to allow division of the

property into two parcels for a freestanding restaurant and for the primary commercial center.

27. [Regarding](#) request from ST Investments for vacation and conveyance of air rights over southern portion of East Court Avenue right-of-way adjoining 301 E. Court Avenue to allow for second floor balcony; and vacation and conveyance of segment of north/south alley adjoining 301 E. Court Avenue on the east, in the block bounded by E. Court Avenue, E. 3rd and E. 4th Streets.
28. [Regarding](#) request from Rumely, LLC for vacation and conveyance of air rights over north/south alley, west of 104 SW 4th Street and over north portion of Market, south of 104 SW 4th Street to allow for balconies; and vacation and conveyance of southern portion of Vine adjoining 104 SW 4th Street extending north to line 15' south of centerline of railroad track.

SETTING DATE OF HEARINGS

29. [On](#) conveyance of remaining vacated east/west alley between 27th and 28th Streets, south of Cottage Grove, to Terri A. Fristo, \$50 and Pablo Cerda-Fernandez and Sara R. Cerda, \$75, (4-10-06).
30. [On](#) conveyance of permanent easement for water main right-of-way and temporary easement for construction on south side of Locust Street between 2nd Avenue and the Des Moines River Bridge for Des Moines River Outfall and Overflow 2 Project to Board of Water Works Trustees, \$1, (4-10-06).
31. [To](#) correct scrivener's error on vacation and conveyance of City-owned street and alley rights-of-way located adjacent to 1101 E. 6th Street to Des Moines Independent School District, (4-10-06).
32. [On](#) request from Dominic Formaro to rezone property located at 3004 East 38th Street from "RI-70" (One-Family Low-Density Residential) to "C-1" (Neighborhood Retail Commercial), subject to conditions, (4-10-06).
33. [On](#) request from Frank and Christine Holt for voluntary annexation of approx 10.5 acres in the vicinity of 4250 Grandview Avenue, (5-8-06).
34. [On](#) request from Fleur Properties, LLC for an amendment to the design standards of the approved PUD conceptual plan " Airport Crossroads Conceptual Plan" located west of Fleur Drive, north of County Line Rd., **Plan and Zoning Commission recommends DENIAL**, (4-10-06).

35. [On](#) the 17th Amendment to the Restated Urban Revitalization Plan for the City-wide Urban Revitalization Area to encourage redevelopment and revitalization of the Eastgate Commercial Center, Downtown and Neighborhood Retail Districts by providing tax abatement for improvements, (4-10-06).
36. [On](#) long term lease agreement with Federal Express Corporation for occupancy of newly constructed Cargo Building No. 32, ten-year term with two five-year options, \$204,336 annually plus maintenance and parking fees, (4-10-06).

LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS

37. [Approving](#) payment of \$652 to Tishler & Wald, Ltd. for representation in the UAL Corporation bankruptcy and payment of \$337.23 to Barnes & Thornburg, LLP for representation in the ATA Holding Corporation bankruptcy.

CITY MANAGER COMMUNICATIONS

38. [Submitting](#) out-of-state travel requests for Dan Gray, Allen Johnson, Diane Rauh, W. David Lockard, Dani Stookey, Andrea Hauer and Christine Hensley.

[\(Council Communication No. 06-145\)](#)

APPROVING

39. [Environmental](#) Certification and Request for Release of Funds from HUD for the Department of Housing Services' 2006 Capital Fund Program.

[\(Council Communication No. 06-134\)](#)

40. [Second](#) Amendment to Development Agreement and authorizing closing on sale of vacant parcel west and south of Spaghetti Works Building to Court Avenue Partners II L.P.

41. [The](#) East Village Court, LLC application for Enterprise Zone Benefits for a project at 301 E. Court Avenue in the Des Moines Gateway Enterprise Zone.

[\(Council Communication No. 06-132\)](#)

42. [Amendment](#) No. 2 to FY2004 Law Enforcement Terrorism Prevention Program Grant changing the performance period of the original grant to include start date of 6-9-04 and ending date of 5-31-06.

[\(Council Communication No. 06-133\)](#)

43. [Grant](#) Application from the United States Department of Homeland Security for funding purchase and utilization of power lift ambulance stretchers for the Des Moines Fire Department.

[\(Council Communication No. 06-135\)](#)

44. [Renewal](#) of Lease Agreement with HPM Investments, Inc. for the Housing Services Department administrative offices at Park Fair Mall, \$93,712.04 per year.

[\(Council Communication No. 06-155\)](#)

45. [Communication](#) from Downtown Community Alliance requesting approval on behalf of Meredith Corporation to approve banner design for 14 banners in downtown Des Moines during Spring 2006.

46. Bids from the following:

- (A) [Mario's](#) Lawn Services, for an annual contract with two additional one-year renewal options to furnish mowing and trimming services for Woodland, Simms and Oak Grove Cemeteries. (Ten bids mailed, four received.)
- (B) [Stetson](#) Building Products, for an annual contract with two additional one-year renewal options to furnish concrete saw blades for use by the Street Maintenance Division. (Twelve bids mailed, ten bids received.)
- (C) [Tough](#) Solutions, for mounting hardware for mobile data computers for use by the Fire Department, \$40,951. (Six bids mailed, five bids received.)

47. [Receipt](#) of the Legislative Update for the 81st Iowa General Assembly.

48. [Civil](#) Service Entrance Lists for Economic Development Coordinator, Assistant Surveyor, and Fleet Service Vehicle and Equipment Coordinator.

49. [Authorizing](#) Finance Director to draw checks on the registers for the weeks of March 20 and March 27, 2006 and to draw checks for the bills of the Des Moines Municipal Housing Agency for the weeks of March 20 and March 27, 2006; and to draw checks for biweekly payroll due March 31, 2006.

ORDINANCES - FINAL CONSIDERATION

- 50. [Amending](#) Chapter 118 of the Municipal Code, regarding Regulation of Industrial Wastewater and Commercial Wastewater, to provide for various fees that make the Industrial Pretreatment Program self-funded and to add enforcement mechanisms as required by the Iowa Department of Natural Resources.

* * * * * END CONSENT AGENDA * * * * *

ORDINANCES - FIRST CONSIDERATION

- 51. [Amending](#) Chapter 114 of the Municipal Code regarding traffic regulation changes as follows:
 - (A) Revision of maximum load limit revision-East Payton Avenue Bridge over the creek, south of Easter Lake.
 - (B) Greenwood School area parking revisions-38th Place/Greenwood Drive.
 - (C) Stop signs at uncontrolled intersections in the area bounded by SE 6th Street on the West, Scott Avenue on the North, SE 14th Street on the East, and the Des Moines River on the South.
 - (D) Parking meter time limit change-E. 4th Street from E. Walnut Street to E. Locust Street.
 - (E) Parking restriction to facilitate movement of solid waste vehicles-West side of 49th Place, south of Urbandale Avenue.
 - (F) Updating parking regulations-Western Gateway area between 13th Street and 15th Street from Grand Avenue to Locust Street.
 - (G) Parking restriction adjacent to Events Center-West side of 2nd Avenue between Center and Crocker Streets.

[\(Council Communication No. 06-141\)](#)

COUNCIL REQUESTS

52. [Council](#)-initiated amendment to the Des Moines 2020 Community Character Land Use Plan to designate property in the vicinity of SE 6th and north of E. Columbus Avenue, (South Des Moines Little League) as Low/Medium or Medium Density Residential, and to rezone the property to “R-3” or “R-4” (Multiple Family Residential).

***Note:If the City Council completes all items above before 5:00 PM, they will skip the Hearing Items, and continue the agenda starting with the next item following the Hearings. At 5:00 PM, they will return to this point in the agenda to consider the Hearing Items and then continue with all the remaining items on the agenda."**

HEARINGS (OPEN AT 5:00 P.M.) (ITEMS 53 THRU 59)

53. [On](#) 2005 HUD Consolidated Annual Performance and Evaluation Report (CAPER), (on file in the City Clerk’s Office).
54. [On](#) Voluntary Annexation of approximately 10 acres of land in Warren County, located west of County Highway R63 between Blue and Carpenter Streets, LeMar Koethe, **and to continue to the 4-10-06 Council meeting at 5:00 PM.**
55. [On](#) City-initiated proposal to annex the north half of NE 40th Avenue, adjoining the City boundary.
56. [On](#) Lease Agreement with E-Z-Go Division of Textron, Inc., for rental of golf carts for a 3-year period and allowing for one 3-year extension, \$74,194.38 annually.
 - (A) [Authorizing](#) execution of lease agreement.

[\(Council Communication No. 06-146\)](#)

57. [On](#) 2006 Expanded Street Resurfacing Program – Arterial: Resolution approving plans, specifications, form of contract documents, Engineer’s estimate, and designating lowest responsible bidder as Des Moines Asphalt & Paving Co., (Jim Gauger, President), \$1,457,903.75.

[\(Council Communication No. 06-159\)](#)

(A) [Approving](#) contract and bond and permission to sublet.

58. [On](#) 2006 Expanded Street Resurfacing Program - [Residential](#): Resolution approving plans, specifications, form of contract documents, Engineer's estimate, and designating lowest responsible bidder as Des Moines Asphalt & Paving Co., (Jim Gauger, President), \$943,497.50.

[\(Council Communication No. 06-160\)](#)

(A) [Approving](#) contract and bond and permission to sublet.

59. [On](#) Closes Creek Watershed-26th Street Detention and Storm Improvements: Resolution approving plans, specifications, form of contract documents, Engineer's estimate, and designating lowest responsible bidder as Elder Corporation, (Jared R. Elder, President), \$2,836,999.99.

[\(Council Communication No. 06-161\)](#)

(A) [Approving](#) contract and bond and permission to sublet.

- (B) [Approving](#) Professional Services Supplemental Agreement No. 3 with Snyder & Associates, Inc., not to exceed \$92,800.

[\(Council Communication No. 06-142\)](#)

END HEARINGS AT _____ PM

CITY MANAGER RECOMMENDATIONS

60. [Regarding](#) the City's participation in the proposed redevelopment of the vacant Younkers Building at 7th and Walnut Streets, not to exceed \$2 million or 5% of total project cost whichever is less.

[\(Council Communication No. 06-136\)](#)

APPROVING

~~61. Maintenance Agreement between the City of Des Moines, Des Moines Riverfront Development Authority (RDA) and Downtown Des Moines Self-Supported Municipal Improvement District (SSMID) to maintain Gateway West Park, Principal Riverwalk, M.L. King Jr. Parkway and the East Locust Streetscape.~~

62. [Second](#) Consideration of ordinance on vacation and conveyance of multiple paper (non-constructed) streets and alleys in vicinity of SW 31st Street and Muskogee Avenue, along with ten City-owned parcels fronting such right-of-way to Barton A. Hicklin, \$20,000.

(A) [Final](#) consideration of ordinance above, (waiver requested by applicant), requires 6 votes.

[\(Council Communication No. 06-163\)](#)

63. [Maintenance](#) Agreement with Greater Des Moines Baseball Co. (Iowa Cubs) for custodial care and horticultural maintenance at James W. Cownie Soccer Park, not to exceed \$275,000 per year.

[\(Council Communication No. 06-147\)](#)

64. [Adoption](#) of new policies and procedures for administration of the HOME Investment Partnership Act (HOME PROGRAM).

[\(Council Communication No. 06-140\)](#)

65. [Contract](#) between the City Youth Advisory Board and Sheslow Auditorium on the Drake University Campus for the annual Metro Star Event scheduled for March 31, 2006.

[\(Council Communication No. 06-156\)](#)

BOARD OF HEALTH

MOTION TO CONVENE.

AUTHORIZING

1. The Legal Department to proceed with court action for authority to abate the public nuisance at the following locations:
 - (A) [2117](#) Delaware Avenue, Titleholder: Michael Woods.
 - (B) [820](#) Grandview Avenue, Titleholder: Neighborhood Finance Corporation.
 - (C) [1108](#) E. 8th Street, Titleholder: Antonio Navarro-Flores; Mortgage Holder: Neighborhood Finance Corporation.
 - (D) [1512](#) 23rd Street, Titleholder: Rick Prettyman d/b/a Forest Renewal, Inc.
 - (E) [1548](#) 23rd Street (garage), Titleholder: Nathan Amadeo.
 - (F) [3721](#) SE 24th Court, Titleholder: Sara A. Cowger and Michael G. Fuller; Mortgage Holders: CitiMortgage, Inc. and Wells Fargo Bank, N.A.
 - (G) [124](#) E. 35th Court, Titleholders: Brian H. Ehlert and Janice R. Ehlert; Mortgage Holders: Bank of America, N.A. and Iowa State Bank.
2. [The](#) Engineering Department to cause the removal of the structure located at 1210 York, Titleholder: Adams Broderick a/k/a Adam Broderick; Mortgage Holder: Polk County Bank.
3. [Release](#) of demolition costs reserve held by Allied Insurance regarding property known as 1610 E. 9th Street held under claim number 14R43188 insured by MarySue McMulin with no claim being made for enforcement costs.

COMMUNICATION

4. [Communication](#) regarding demolition cost reserve being held by Auto-Owners Insurance for the fire-damaged structure located at 4020 E. 25th Street.

MOTION TO ADJOURN AT _____ P.M.

