

DES MOINES CITY COUNCIL MEETING

October 26, 2009 4:30 PM

PROCLAMATIONS – 4:15 PM

Right of Way Recognition Month

INVOCATION: Pastor Craig Robertson
Grant Park Christian Church
E. 25th and Capitol

1. ROLL CALL:
2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED:
3. APPROVING CONSENT AGENDA – items 3 through 44:

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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.

LICENSES AND PERMITS

4. Approving Alcoholic Beverage License Applications for the following:

RENEWAL APPLICATIONS

(A)	ALDI INC #03	3940 E 14TH STREET	C Beer
(B)	ALDI INC #29	500 E ARMY POST RD	C Beer
(C)	ALDI INC #38	2543 E UNIVERSITY	C Beer
(D)	AMICI ESPRESSO	206 6TH AVE	C Liquor
(E)	CARLOS O'KELLYS	6250 SE 14TH ST	C Liquor
(F)	DAHLS FOODS	4343 MERLE HAY RD	E Liquor
(G)	DUBLIN	2307 UNIVERSITY	C Liquor
(H)	DUDS N SUDS	2629 BEAVER AVE	B Beer
(I)	ESTRADAS	3029 MERLE HAY RD	C Liquor
(J)	HESSEN HAUS	101 4TH STREET	C Liquor
(K)	HY VEE GAS #5	1113 E ARMY POST	C Beer

(L)	JAVA JOES COFFEEHOUSE	214 4TH ST	C Beer/Wine
(M)	JESSES EMBERS	3301 INGERSOLL	C Liquor
(N)	SUPER QUICK	303 SE 30TH ST	C Beer

SPECIAL EVENTS APPLICATIONS

- (O) HY-VEE WINDSOR HEIGHTS 519 PARK ST Five (5) Day License Special Class C Liquor License for Pottery For Prevention event on November 6, 2009. Pending approval of Building, Electrical, Fire and Zoning Departments.
- (P) RUSSELL GILMAN 519 PARK ST Five (5) Day License Class C Liquor License for an event on November 7, 2009. Pending approval of Building, Electrical, Fire and Zoning Departments.

PUBLIC IMPROVEMENTS

- 5. Ordering construction of the following:
 - (A) [Police](#) Department Metro Star Building Improvements: Receiving of bids, (11-24-09), and Setting date of hearing, (12-7-09). (Construction Estimate - \$416,300).
[\(Council Communication No. 09-750\)](#)
 - (B) [SE 6th Street](#) Bridge over the Des Moines River Rehabilitation: Receiving of bids, (11-24-09), and Setting date of hearing, (12-7-09). (Construction Estimate - \$2,387,597.50)
[\(Council Communication No. 09-749\)](#)
- 6. [Approving](#) Professional Services Agreement with RDG Planning and Design for the Des Moines Skywalk structural and mechanical conditions and improvements study, not to exceed \$135,000.
[\(Council Communication No. 09-741\)](#)
- 7. [Approving](#) Change Order No. 1 with Reilly Construction Co., Inc. for adjustment of quantities on the E. Indianola Avenue Widening Phase 1, not to exceed \$80,386.
[\(Council Communication No. 09-743\)](#)
- 8. [Approving](#) Change Order No. 2 with Elder Corporation for additional work on the Cownie Soccer Fields Improvements – Phase 3, not to exceed \$90,420.
[\(Council Communication No. 09-744\)](#)

9. [Approving](#) designation of lowest responsive, responsible bidder as Proshot Concrete, Inc., Timothy McDougle, President, \$179,664, and approval of contract and bond, and permission to sublet on 1706 Pennsylvania Avenue Soil Stabilization.
10. [Approving](#) Private Construction Contract between Halbrook Excavating, Inc. and Tai Village, Inc. for sanitary sewer improvements in 4200 ML King Jr. Parkway, \$2,750.
11. [Communication](#) from Van Hauen & Associates, Inc. requesting permission to sublet certain items on 2009 Sewer Repair Contract 1.
12. Accepting completed construction and approving final payment for the following:
 - (A) [Grimes](#) Asphalt & Paving Corp. – American Discovery Trail – Segment 4.
 - (B) [Grimes](#) Asphalt & Paving Corp. – 2008 Expanded Street Resurfacing Program, Contract 2.

SPECIAL ASSESSMENTS

- ~~13. [Approving](#) deletion of rental inspection assessment at 2022 34th Street.~~
14. Approving delinquent sewer rental and/or solidwaste/stormwater utility amounts for September 2009 on the following:
 - (A) [Fees](#).
 - (B) [Credits](#).

LAND/PROPERTY TRANSACTIONS

15. [Authorization](#) to proceed with acquisition of necessary right-of-way and easements for the SE 6th Street widening – Court Avenue to Des Moines River project.

[\(Council Communication No. 09-748\)](#)

COMMUNICATIONS FROM PLANNING AND ZONING

16. [Regarding](#) request from Divine Temple Church of God in Christ, 707 Buchanan Street, to vacate segments of right-of-way adjoining their property, subject to conditions.

SETTING DATE OF HEARINGS

17. [On](#) request from Erazm Rokitnicki to rezone 2134 E. Grand Avenue from “R1-60” (One-Family Low-Density Residential) to Ltd. “NPC” (Neighborhood Pedestrian Commercial) to allow conversion of legal non-conforming book bindery office to an event/assembly hall, (11-9-09).
18. [On](#) request from Josh Spencer to rezone 1800 Euclid Avenue from “C-1” (Neighborhood Retail Commercial), “C-2” (General Retail and Highway Oriented Commercial) and “U-1” (Floodplain) to “M-2” (Heavy Industrial) to allow a tree contracting business and wood yard for display and sales of firewood, (11-9-09). (Plan and Zoning Commission recommends DENIAL)
19. [On](#) Zoning text amendments to Section 134-278 and 134-1296 to address dwellings made non-conforming by annexation and automatic imposition of “A-1” Agricultural district regulations, (11-9-09).
20. [On](#) Application for Certificate of Public Convenience and Necessity to operate limousine services for Michael G. Marks to do business as Marks Limousine Service, (11-9-09).

CITY MANAGER COMMUNICATIONS

21. [Submitting](#) travel and training requests for Raymond Carrington and Tom Vlassis.

[\(Council Communication No. 09-754\)](#)

APPROVING

22. Supportive Housing Program (SHP) Renewal Grant Agreement with the United States Department of Housing and Urban Development (HUD) for the following:

(A) [Homeless](#) Management Information System.

[\(Council Communication No. 09-734\)](#)

(B) [House](#) of Mercy Transitional Housing Program.

[\(Council Communication No. 09-732\)](#)

23. [2009](#) U.S. Department of Housing and Urban Development (HUD) Continuum of Care program application.

[\(Council Communication No. 09-733\)](#)

(A) [Communication](#) from Chair of Polk County Housing Continuum Board.

24. [Major](#) Amendment #6 of Community Development Block Grant (CDBG) Program Disaster Recovery Housing Fund Contact with Iowa Department of Economic Development to add funds.

[\(Council Communication No. 09-752\)](#)

25. [Third](#) amendment to Jumpstart Housing Assistance Program Grant Agreement.

[\(Council Communication No. 09-753\)](#)

26. Amendment to terms of Home Loans for renovation of low-income rental housing for the following:

(A) [Oakridge](#) Neighborhood Associates, L.P.

(B) [Oakridge](#) Neighborhood Associates, Phase II, L.P.

[\(Council Communication No. 09-763\)](#)

27. [HOME](#) contract documents with MLK Brickstone, L.P. for \$250,000 loan for new construction of 18 units of low-income rental housing at 1045 19th Street.

[\(Council Communication No. 09-738\)](#)

28. [HOME](#) contract documents with Anawim (d/b/a Anawim Housing) for new construction of six low-income rental housing units as part of mixed-use building at 2024 Forest Avenue.

[\(Council Communication No. 09-739\)](#)

29. [Amended](#) Neighborhood Stabilization Program (NSP) Contract with the Iowa Department of Economic Development and related supporting Documents.

[\(Council Communication No. 09-751\)](#)

30. [Urban](#) Renewal Development Agreement with 6000 Aurora LLC for redevelopment of former Silver Cinema Building at 6000 Aurora Avenue.

[\(Council Communication No. 09-740\)](#)

31. [Environmental](#) covenants upon portions of SW 11th and Murphy Street within the old Pittsburg/Des Moines Steel Site required to complete cleanup and qualify for a “No Further Action” letter from the Iowa Department of Natural Resources.

32. [Sidewalk](#) café lease serving alcohol with Rogers Entertainment, Ltd. d/b/a Legends at 216 Court Avenue.

[\(Council Communication No. 09-736\)](#)

33. [Amendment](#) of Agreement with Sprint Solutions, Inc. for cell phone service and authorizing IT Director to execute and to negotiate future amendments.

[\(Council Communication No. 09-737\)](#)

34. [Acceptance](#) of Project Safe Neighborhoods 2009 Anti-Gang Initiative Grant, \$25,877.

[\(Council Communication No. 09-758\)](#)

35. [Submittal](#) of FY2008 Revised Annual Certification Report and FY2009 Annual Certification Report to the U.S. Department of Justice.

[\(Council Communication No. 09-760\)](#)

36. [Sub-Grantee](#) Agreements to administer FFY 2008 Homeland Security Grant Program Funds from Iowa’s Homeland Security and Emergency Management Division.

[\(Council Communication No. 09-759\)](#)

37. [Communication](#) from Iowa Events Center requesting permission to place a temporary banner on the north side of Veterans Auditorium in association with AQS Quilt Show and Contest to be held from October 16th through November 1, 2009.

38. [Communication](#) from Downtown Community Alliance on behalf of Meredith Corporation to approve banner design for 7 banners to be displayed in Downtown Des Moines on Locust Street in winter 2009.

39. [Receive](#) and file Quarterly Treasurer’s Report as of September 30, 2009.

40. Bids from the following:

(A) [Western](#) Waterproofing (Tom Longer, Branch Manager) and Superior Painting & Epoxy Coating (Tony Negrete, Owner) for sandblasting and painting services of pools to be used by Parks and Recreation Department, \$66,427.75. (Twelve bids mailed, four received).

- (B) [Foster](#) & Freeman USA Inc. (David Tobin, President) for three forensic fuming cabinets to be used by Police Department, \$48,122.83. (Seven bids mailed, four received).

[\(Council Communication No. 09-735\)](#)

- (C) [Optics](#) Planet (Mark Levitin, CEO) for thermal imaging cameras to be used by Police Department, \$28,620. (Nine bids mailed, three received).
- (D) [Auction](#) Outlet (Sandy Matchinsky, Owner) for an annual contract with up to four additional one-year renewal options to furnish auctioneering services to dispose of abandoned and/or surplus vehicles, equipment and unclaimed property to be used by the Police Department, \$50,000 annual estimated cost. (Nine bids mailed, three received).
- (E) [TNT](#) Landscaping (John Church, Owner) for plant materials for installation at various parks to be used by the Parks and Recreation Department, \$90,442. (Thirteen bids mailed, seven received).

[\(Council Communication No. 09-764\)](#)

- 41. [Civil](#) Service Promotional Lists for Fire Medic and Building Inspector.
- 42. [Authorizing](#) Finance Director to draw checks on registers for the weeks of October 26 and November 2, 2009; to draw checks for bills of the Des Moines Municipal Housing Agency for weeks October 26, 2009 and November 2, 2009; and to draw checks for biweekly payroll due November 6, 2009.

ORDINANCES – FINAL CONSIDERATION

- 43. [Amending](#) Chapter 114 of the Municipal Code regarding traffic regulation changes as follows:
 - (A) Extend Passenger Loading/Unloading on 5th Avenue adjacent to the Downtown School.
 - (B) Back-In Angle Parking – both sides of E. 4th Street from E. Grand Avenue to Des Moines Street.
 - (C) Additional Accessible parking spaces in the East Village.
 - (D) Loading Zone in front of new Nationwide Insurance Building – south side of Locust between 12th and 13th Streets.
 - (E) Removal of 7:00 am – 9:00 am parking restriction – E. Grand Avenue between Robert D. Ray Drive and Pennsylvania Avenue.

ORDINANCES – SECOND CONSIDERATION

44. On request from State of Iowa to rezone property in the vicinity of 1111 E. Court Avenue from “R-4” (Multiple Family Residential) to “C-3A” (Central Business District Support Commercial).

(A) Final consideration of ordinance above (waiver requested by Community Development Department), requires six votes.

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

ORDINANCES – FIRST CONSIDERATION

45. Amending Chapter 70 of the Municipal Code, regarding hunting and use of firearms and bows and arrows on 20-acre parcels assessed as agricultural property zoned “A-1” (Agricultural).

(A) Final consideration of ordinance above, (waiver requested by Jamey and Joey Meyer, who initiated the request), requires 6 votes.

(Council Communication No. 09-765)

46. Amending Chapter 18 of the Municipal Code regarding the keeping of exotic and dangerous animals to specifically exempt the keeping of primates by the Iowa Primate Learning Sanctuary for research and educational programs.

(A) Final consideration of ordinance above, (waiver requested by the Iowa Primate Learning Sanctuary d/b/a Great Ape Trust of Iowa), requires 6 votes.

(Council Communication No. 09-756)

47. Amending Chapter 114 of the Municipal Code regarding traffic regulation changes as follows:

(A) Installation of metered parking spaces on E. Grand Avenue near E. 2nd Street.

(B) Code revisions to incorporate traffic regulations for streets in annexation areas.

(C) Request to allow parking adjacent to 2134 E. Grand Avenue.

(Council Communication No. 09-742)

COMMUNICATIONS/REPORTS

48. ~~From David Costello with Hope Builders, 1105 Orchard Lane, requesting permission to speak regarding helping the homeless this winter.~~
49. From Chet Guinn to speak regarding a citizens' proposal to beautify the Peace Garden in Nollen Plaza.
50. From Arthur McCarthy, 2411 24th Street, Apt #5, to speak regarding Hickman Pub, 2335 Hickman.
51. ~~From Una Ray, 1315 E. 16th Street, to speak regarding Handy Man Service for the community.~~

***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 52 THRU 56)

52. On vacation and conveyance of segment of SE 28th Street, north of E. Market Street to Greenstar Mid-America, LLC for \$900.

(Council Communication No. 09-746)

- (A) First consideration of ordinance above.
- (B) Final consideration of ordinance above (waiver requested by applicant), requires six votes.

53. On vacation and conveyance of the north/south alley adjoining 101 SW 5th Street to Rumely Lofts Limited Partnership for \$13,959 and **to continue to November 9, 2009 at 5:00 PM.**

(Council Communication No. 09-747)

54. On conveyance of an encroachment easement to allow for encroachment of existing building and improvements at 514 Foster Drive to Geoffrey J. Ingram, Trustee of Earl J. Ingram Revocable Management Trust, \$2,060.

(Council Communication No. 09-745)

55. On request from George Clayton to rezone 2218 E. 9th Street from "C-1" (Neighborhood Retail Commercial) to Ltd. "C-2" (General Retail and Highway Oriented Commercial) to

allow for use of garage for general motor vehicle repair. (Plan and Zoning Commission recommends **DENIAL**).

56. [On](#) First Amendment to Operating Agreement and Terminal Lease with Delta Airlines, Inc. at the Des Moines International Airport.

[\(Council Communication No. 09-762\)](#)

*** END HEARINGS AT _____ PM ***

APPROVING

- ~~57. [Bid](#) from G & S Service Inc. (Glen Mikel, Owner) to furnish impounded vehicle towing and storage services for District 1 and District 2 for thirty six months with two one year renewal options to be used by the Police Department, \$41,000 estimated annual cost. (Ten bids mailed, four received).~~

~~[\(Council Communication No. 09-757\)](#)~~

58. [Proposal](#) from Creative Outdoor Advertising (COA) to provide a bus bench/street side amenities program on the streets of Des Moines that are served by public transit.

[\(Council Communication No. 09-755\)](#)

59. [Letter](#) of consent for the Army Corps of Engineers to apply to the Secretary of the Interior to designate the Des Moines River Water Trail as a National Recreational Trail.

[\(Council Communication No. 09-761\)](#)

EXTRA ITEMS

These extra items are filed after 5:00 P.M. on the Wednesday preceding a Council meeting and have been included upon the Amended Agenda by the City Clerk, with sponsorship of the Mayor or a City Council Member who shall deem the item of sufficient urgency to warrant immediate Council action - said statement of urgency from the City Manager and/or appropriate Department Director shall be placed on file with the City Clerk.

1. [Communication](#) from Fran Koontz advising of her resignation from the Plan and Zoning Commission, Seat 11, effective immediately. Sponsor: Mahaffey.
 - (A) [Recommendation](#) from Council Member Bob Mahaffey to appoint William Page to the Plan and Zoning Commission, Seat 11, for a five-year term commencing July 1, 2006 to expire July 1, 2011.
2. [Communication](#) from Jeff Wagner, Manager, Blues on Grand, requesting to speak regarding downtown parking. Sponsor: Hensley.

BOARD OF HEALTH

MOTION TO CONVENE.

1. Authorizing the Legal Department to proceed with court action seeking authority to abate the public nuisance at the following locations:
 - (A) **1712 Capitol Avenue**, main structure and garage structure, Titleholder: Adair Holdings, LLC.
 - (B) **1012 SE 10th Street**, main structure and accessory structure, Titleholders: Donald H. Howe (deceased) and Joyce A. Howe.
 - (C) **4315 SE 14th Street, Unit 5, Unit 8, Unit 10, and Unit 15**, four main structures (mobile homes), Titleholders: Harold Rogers, Phyllis Rogers, and Harold Rogers and Phyllis Rogers d/b/a P & H Properties.
 - (D) **625 42nd Street**, main structure and garage structure, Titleholder: LDF Development, LLC; Mortgage Holders: Kramer Mortgage Company, LC and U.S. Bank, National Association.

MOTION TO ADJOURN AT _____ P.M.