

**DES MOINES CITY COUNCIL MEETING**

**May 5, 2008**

**Closed Session – 3:30 P.M.  
Municipal Housing Agency Governing Board – 4:00 P.M.  
Regular Meeting - 4:30 P.M.**

**I. CLOSED SESSION – 3:30 P.M.**

- (A) Roll Call.
- (B) Recess, and reconvene in closed session pursuant to Section 21.5(c) of the Code of Iowa.
- (C) Closed Session.
- (D) Terminate closed session and reconvene in open session.

\* \* \* \* \*

**PROCLAMATIONS – 4:00 P.M.**

- [Recognition](#) of Drake University Mens and Womens Basketball Teams and Coaches
- [Bike](#) To Work Week
- [National](#) Association of Insurance Women Week
- [Salvation](#) Army Week

**INVOCATION:** Chaplain John Harrell, Des Moines Fire Department

- 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 37:

## LICENSES AND PERMITS

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

### NEW APPLICATIONS

(A)	GORDITAS SAN PANCHO	2250 HUBBELL AVE	B Beer
<del>(B)</del>	<del>OLD WEST MEXICAN RESTAURANT</del>	<del>4138 FLEUR DR</del>	<del>C Liquor</del>
(C)	RIO	1500 SE 1ST ST	C Liquor

### RENEWAL APPLICATIONS

(D)	DEPOT	3000 E GRAND AVE	B Beer
(E)	GENES PLACE	2117 E UNIVERSITY	C Liquor
(F)	LEGENDS AMERICAN GRILL	216 COURT AVE	C Liquor
(G)	LOCO JOES NICKEL ARCADE	6550 SE BLOOMFIELD	B Beer
(H)	NOAHS ARK RESTAURANT	2400 INGERSOLL AVE	C Liquor
<del>(I)</del>	<del>PEOPLES COURT/CC TAFT &amp; CO/AK</del>	<del>216 COURT AVE</del>	<del>C Liquor</del>
(J)	QUIKTRIP #516	1000 E UNIVERSITY	C Beer
(K)	SAVERY HOTEL AND SPA	401 LOCUST ST	B Liquor
(L)	SAVERY HOTEL AND SPA	401 LOCUST ST	B Wine
(M)	SUPER STOP	727 SE 14TH ST	C Beer
(N)	WELLS FARGO FINANCIAL	800 WALNUT ST	C Liquor

### TRANSFER TO NEW LOCATION

(O)	DES MOINES EMBASSY CLUB	519 PARK ST	C Beer/Wine
	Temporary transfer of license for event on May 17, 2008. Pending approval of Building and Fire Departments.		

### OUTDOOR SERVICE APPLICATIONS

(P)	14TH STREET TAVERN	3418 E 14TH ST	C Liquor
	Temporary outdoor service area for a special event on May 10, 2008. Pending approval of Building Department.		
(Q)	BLAZING SADDLE	416 E 5TH ST	C Liquor
	Temporary outdoor service area in conjunction with Blooms and Blues on May 17, 2008. Pending approval of Building, Electrical, Zoning and Fire Departments.		

### SPECIAL EVENT APPLICATION

(R)	LAZERFEST	2201 GEORGE FLAGG PKWY	Five (5) Day License
	Class B Beer License at Des Moines Water Works Park for Lazerfest on May 24, 2008. Pending approval of Building, Electrical, Zoning and Fire Departments.		

5. [Consideration](#) of Class C Liquor License for Court Side Entertainment, 1014 E. 14<sup>th</sup> Street. (Deferred from April 21, 2008 Council Meeting). ~~Pending approval of Zoning Department.~~

## **PUBLIC IMPROVEMENTS**

6. Ordering construction of the following:
  - (A) [2008](#) Sanitary Sewer Repair Program – Receiving of bids, (5-28-08), and Setting date of hearing, (6-9-08). (Construction Estimate - \$117,500).  
[\(Council Communication No. 08-261\)](#)
  - (B) [SW](#) 7<sup>th</sup> Street and Indianola Road Intersection Improvements – Receiving of bids, (5-28-08), and Setting date of hearing, (6-9-08). (Construction Estimate - \$363,935.80).  
[\(Council Communication No. 08-262\)](#)
  - (C) [University](#) Avenue Resurfacing-Des Moines River Bridge to 6<sup>th</sup> Avenue – Receiving of bids, (5-20-08), and Setting date of hearing, (6-9-08). (Construction Estimate - \$674,510.60).  
[\(Council Communication No. 08-260\)](#)
7. Approving Private Construction Contracts for the following:
  - (A) [Halbrook](#) Excavating, Inc. and Helena Industries for Sanitary Improvements at 3525 Vandalia Road.
  - (B) [Nelson](#) Construction Services and The Academy for Building Improvements at 100 45<sup>th</sup> Street.
8. [Communication](#) from C.A.C., Inc. requesting to sublet certain items on the American Discovery Trail Wetlands Mitigation.
9. [Approval](#) of FY 2007-2008 Annual Right-of-Way Management Fee.  
[\(Council Communication No. 08-277\)](#)

## **SPECIAL ASSESSMENTS**

10. Approving sanitary sewer for Lincoln Avenue from Victoria Drive to 33<sup>rd</sup> Street.
  - (A) [Communication](#) from City Manager recommending proposed sanitary sewer construction using special assessments.

[\(Council Communication No. 08-269\)](#)
  - (B) [Preliminary](#) resolution for construction of sanitary sewer improvements.
  - (C) [Fixing](#) values of lots.
  - (D) [Adopting](#) preliminary plat and schedule, estimate of costs and proposed plans and specifications.
  - (E) [Proposed](#) Resolution of Necessity, Notice to Property Owners of hearing and setting date of hearing. (6-9-08).

## **LAND/PROPERTY TRANSACTIONS**

11. [Approving](#) Federal Aviation Administration Certificate of Title for Grant 41 for Airport Runway 13R/31L Project.
12. [Approving](#) Tax Abatement Application for the additional value added by improvements during 2006 for 2832 Sweetwater Drive.

[\(Council Communication No. 08-256\)](#)

13. [Authorization](#) to proceed with acquisition of the necessary right-of-way and easements for the Hickman Road Traffic Signal Improvements Project.

[\(Council Communication No. 08-258\)](#)

## **BOARDS/COMMISSIONS/NEIGHBORHOODS**

14. [Recommendation](#) from Council Member Tom Vlassis to appoint James Noblin to Seat 4 on the Access Advisory Board for a four-year term to expire June 15, 2008 and to an additional four-year term to expire June 15, 2012.

15. [Recommendation](#) from Council Member At-Large Michael Kiernan to reappoint Thomas Clarke, Sr. to the Zoning Board of Adjustment, Seat 2 for a five-year term commencing April 1, 2008 to expire April 1, 2013.

## **COMMUNICATIONS FROM PLANNING AND ZONING**

16. [Regarding](#) request from E5W, L.L.C. for vacation and conveyance of the air rights on the eastern portion of E. 5<sup>th</sup> Street adjoining property at 303 E. 5<sup>th</sup> Street to allow for extension balconies, subject to conditions.

## **SETTING DATE OF HEARINGS**

17. [On](#) conveyance of property in the vicinity of 2-9<sup>th</sup> Street to Polk County, \$1, (5-19-08).
18. [On](#) vacation and conveyance of a portion of E. Locust Street right-of-way, east of Pennsylvania Avenue for the West Capitol Terrace Project to the State of Iowa, \$1, (5-19-08).
19. [On](#) request from O. Glen Kemp to rezone 3749 & 3801 E. University Avenue from “C-1” (Neighborhood Retail Commercial) and “R1-60” (One-Family Low-Density Residential) to a Limited “C-2” (General Retail and Highway Oriented Commercial) to allow for redevelopment for mini-warehouse use (5-19-08).
20. [On](#) request from Penske Truck Leasing for relief from temporary moratorium at 4101 E. 14<sup>th</sup> Street, (5-19-08).

## **LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS**

21. [Approving](#) payment of \$236.50 to Myers & Jenkins Law Firm for services related to the UAL Corporation, ATA Holdings Corp., Delta Air Lines, Inc., et. al. (Comair, Inc.) and Northwest Airlines Corporation, et. al. bankruptcies.

## **CITY MANAGER COMMUNICATIONS**

22. [Submitting](#) training requests for Andrew Hennesy and Erin Lovejoy.

[\(Council Communication No. 08-273\)](#)

## APPROVING

23. [Second](#) one-year renewal of contract with McGladrey & Pullen, LLP for independent auditing services.

[\(Council Communication No. 08-244\)](#)

24. [Assignment](#) of Tax Sale Certificates for parcels located at 453 E. Hillside Avenue, 1433 5<sup>th</sup> Street, and 1519 9<sup>th</sup> Street.

[\(Council Communication No. 08-248\)](#)

25. [Preliminary](#) terms of agreement with Science Center of Iowa for residential use of parking spaces in the Science Center of Iowa parking structure, 101 SW 4<sup>th</sup> Street.

[\(Council Communication No. 08-270\)](#)

26. [Master](#) Lease-Purchase Agreement with De Lage Landen Public Finance LLC.

[\(Council Communication No. 08-242\)](#)

27. [Service](#) Contract with RCC Consultants Incorporated for assistance with Interoperability Plan associated with 2005 Federal COPS Interoperability Grant.

[\(Council Communication No. 08-246\)](#)

28. [Grant](#) Agreement with Iowa Homeland Security and Emergency Management Division (HSEMD) to administer Federal Homeland Security Funds through the Law Enforcement Terrorism Prevention Program (LETPP).

[\(Council Communication No. 08-252\)](#)

29. [Memorandum](#) of Understanding with Polk County Sheriff's Office for the Law Enforcement Terrorism Prevention Program (LETPP).

[\(Council Communication No. 08-253\)](#)

30. [First](#) Amendment to the Intergovernmental 28E Agreement with City of Norwalk for loan of Wastewater Treatment Plant Operator.

[\(Council Communication No. 08-274\)](#)

31. [Iowa](#) State Fair request for temporary head-in parking along the north side of Dean Avenue from E. 31<sup>st</sup> Street to E. 34<sup>th</sup> Street; temporary fencing to the sidewalk along the north side of Dean Avenue from E. 31<sup>st</sup> Street to E. 30<sup>th</sup> Street; and "No Parking" signs

in area east of E. 34<sup>th</sup> Street (Gate 7) and Grand Avenue both north to University Avenue and south to Walnut Street during the fair (August 4-17, 2008).

32. [Amendment](#) to contract with Acme Printing for printing and mailing of the City Source newsletter.

[\(Council Communication No. 08-241\)](#)

33. Bids for the following:

- (A) [Mosquito](#) Management Inc. and Clarke Mosquito Control Products for joint purchase along with West Des Moines, Polk County and Urbandale for an annual contract with two (2) additional twelve (12) month renewal options for mosquito control products and applications services to be used by Neighborhood Inspections Division, \$38,182. (Nine bids mailed, three received).

[\(Council Communication No. 08-272\)](#)

- (B) [Hewlett](#) Packard Co. for server equipment for the Computer Aided Dispatch System per Western State Contracting Alliance (WSCA) to be used by the Police Department, \$77,523.

[\(Council Communication No. 08-275\)](#)

34. [Authorizing](#) Finance Director to draw checks on registers for the weeks of May 5 and May 12, 2008; to draw checks for bills of the Des Moines Municipal Housing Agency for the weeks of May 5 and May 12, 2008; and to draw checks for biweekly payroll due May 9, 2008.

## **ORDINANCES - FINAL CONSIDERATION**

35. [Amending](#) Chapter 26 of the Municipal Code regarding building and building regulation licensing.
36. [Amending](#) Chapter 2 of the Municipal Code regarding powers and duties of the city manager to execute real estate documents.
37. [Amending](#) Chapter 114 of the Municipal Code regarding traffic regulation changes as follows:

(A) Parking Restriction – south side of Sunset Road, east of SW 28<sup>th</sup> Street

(B) Parking Restrictions – west side of 24<sup>th</sup> Street between Carpenter and University

- (C) No Right Turn on Red – Northbound 6<sup>th</sup> Avenue to Eastbound Euclid Avenue
- (D) Removal of Two-Hour Parking Restriction – west side of E. 11<sup>th</sup> Street, north of Des Moines Street.

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

**ORDINANCES - SECOND CONSIDERATION**

38. On amendments to Des Moines Municipal Code regarding gas stations and convenience stores:

- (A) [Chapter](#) 82, (Site Plan Ordinance)-design guidelines.
- (B) [Chapter](#) 134, (Zoning Ordinance)-zoning and site plan review.

[\(Council Communication No. 08-250\)](#)

**ORDINANCES - FIRST CONSIDERATION**

39. [Amending](#) Chapter 26 of the Municipal Code regarding building code obstruction permits.

[\(Council Communication No. 08-259\)](#)

**\*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 40 THRU 49)**

40. [On](#) vacation and conveyance of north/south alley between 22<sup>nd</sup> Street and 23<sup>rd</sup> Street from Olive Avenue to Interstate 235 right-of-way, to adjoining property owners, \$100.

[\(Council Communication No. 08-254\)](#)

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



41. On vacation and conveyance of 18<sup>th</sup> Street between Carpenter Avenue and Keosauqua Way to adjoining property owners, \$2,064.

[\(Council Communication No. 08-255\)](#)

- (A) First consideration of ordinance above.
- (B) Final consideration of ordinance above, (waiver requested by applicant), requires 6 votes.
42. On request from DRC Land and Development, LLC to amend the “Three Lakes Estates Phase II” PUD conceptual plan (3001 E. Army Post Road), subject to conditions.
43. On request from Qwest Communications for a zoning text amendment revising Section 134-1296 to provide standards for public franchise utility cabinets located in the front yard.

[\(Council Communication No. 08-267\)](#)

- (A) First consideration of ordinance above.
44. On request from A & W Rentals LC to rezone 2401 Easton Blvd. from “C-1” (Neighborhood Retail Commercial) to Ltd. “M-1” (Light Industrial) to allow for outdoor storage of equipment and vehicles. **Plan and Zoning Commission recommends DENIAL**, (request for 2402 Easton Blvd. was withdrawn by the applicant).
- (A) Recommendation from Plan and Zoning Commission regarding amendment to the Des Moines 2020 Community Character Land Use Plan land use designation from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial. **(Plan and Zoning Commission recommends DENIAL)**.
45. On American Discovery Trail-Segment 4: Resolution approving plans, specifications, form of contract documents, Engineer’s Estimate and designating lowest responsible bidder as Grimes Asphalt & Paving Corporation, (J. M. Yonker, President), \$541,494.65.

[\(Council Communication No. 08-263\)](#)

- (A) Approving contract and bond, and permission to sublet.
46. **ALTERNATE A, which includes the \$30,862 alternate for the solar water heating system and the \$4,500 alternate for the energy monitoring system for solar water heating system**

On Fire Station No. 4 Renovation: Resolution approving plans, specifications, form of contract documents, Engineer’s Estimate and designating lowest responsible bidder as Russell Construction Co., Inc., (James V. Russell, President), \$511,762.

[\(Council Communication No. 08-264\)](#)

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

**OR**

46. **Alternate B, which DOES NOT include the \$30,862 alternate for the solar water heating system and the \$4,500 alternate for the energy monitoring system for solar water heating system.**

[On](#) Fire Station No. 4 Renovation: Resolution approving plans, specifications, form of contract documents, Engineer's Estimate and designating lowest responsible bidder as Russell Construction Co., Inc., (James V. Russell, President), \$476,400. (The City Manager is directed to further investigate the alternate for the solar water heating system to see if a less expensive alternate is available and report back to the City Council at a future date.)

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

47. [On](#) Ingersoll Avenue Streetscape Enhancements - 28<sup>th</sup> to 31<sup>st</sup> Street: Resolution approving plans, specifications, form of contract documents, Engineer's Estimate and designating lowest responsible bidder as Jasper Construction Services, Inc., (Steven J. Rhoads, President), \$289,945.

[\(Council Communication No. 08-266\)](#)

(A) [Approving](#) contract and bond.

48. [On](#) 21<sup>st</sup> Street and Carpenter Avenue Storm Sewer Improvements: Resolution approving plans, specifications, form of contract documents, Engineer's Estimate and designating lowest responsible bidder as Reilly Construction Co., Inc., (Chris R. Reilly, President), \$1,398,640.25.

[\(Council Communication No. 08-268\)](#)

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

49. [On](#) 2007-08 Paving Program: Resolution approving plans, specifications, form of contract documents, Engineer's Estimate and designating lowest responsible bidder as Concrete Technologies, Inc., (Brad Baumler, President), \$248,915.08.

[\(Council Communication No. 08-265\)](#)

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

\*\*END HEARINGS AT \_\_\_\_\_ P.M.\*\*

## APPROVING

50. [Resolution](#) of Support for the Beavertdale Main Street Initiative and authorizing execution of the Pilot Project Agreement.

([Council Communication No. 08-278](#))

51. [Letter](#) of Agreement with Polk County for grant to be used for realignment of High Street, 11<sup>th</sup> Street and 14<sup>th</sup> Street for Wellmark's new home office facility.

([Council Communication No. 08-276](#))

52. [Intergovernmental](#) 28E Agreement with Polk County Conservation Board for Wetlands Mitigation.

([Council Communication No. 08-257](#))

53. [Proposal](#) from MidAmerica Recycling, Inc. for single-stream recyclables processing.

([Council Communication No. 08-271](#))

54. [Directing](#) advertisement for sale of \$24,055,000 General Obligation Bonds, Series 2008D, and \$6,325,000 General Obligation Bonds, Series 2008E (Urban Renewal) (bonds will be sold on Wednesday, June 4th at 11:00 AM and a special Council meeting will be held at 4:30 PM).

([Council Communication No. 08-247](#))

55. [Variance](#) to Chapter 42, Article IV of the Municipal Code regarding noise for Lazerfest concert to be held on May 21, 2008 in Water Works Park, with conditions.

([Council Communication No. 08-251](#))

56. [Intergovernmental](#) 28E Agreement with Bravo Greater Des Moines, Inc.

([Council Communication No. 08-249](#))

## 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. [Request](#) from Chuck Baumhover to speak regarding the Walnut Street Transit Mall.  
SPONSOR: Council Member Hensley.
2. [Request](#) from Jan Goode to speak regarding El Zacateca Bar, 3211 Indianola Avenue.  
SPONSOR: Council Member Meyer.

## BOARD OF HEALTH

MOTION TO CONVENE.

AUTHORIZING

1. The Legal Department to proceed with court action seeking authority to abate the public nuisance at the following locations: [MEMO](#)
  - (A) [906](#) Cleveland Avenue, Titleholder: Jimmie D. Tedesco. Garage structure.
  - (B) [1021](#) 26<sup>th</sup> Street, Titleholder: John Thomas. Main structure.
  - (C) [636](#) E. Euclid Avenue, Titleholder: Brett I. Anderson; Mortgage holder: First Bank. Main structure.

MOTION TO ADJOURN AT \_\_\_\_\_ P.M.



All-America City  
1949 1976 1981 2003