

**SUMMARY OF DES MOINES CITY COUNCIL MEETING**

**October 28, 1996 4:30 P.M.**

**SPECIAL PRESENTATIONS - 4:00 P.M.:**

Mark Durham Certificate of Achievement for Excellence in Financial Reporting--Government Finance Officer's Association

**INVOCATION:** Pastor Paul Kock

Park Avenue Christian Church

96-3640 1. ROLL CALL: **Present: Davis, Daniels, Flagg, Hensley, McPherson, Phillips and Vlassis.**

96-3641 2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED: **Moved by Vlassis to adopt. Motion Carried 7-0.**

96-3642 3. APPROVING CONSENT AGENDA - items 3 through 39: **Moved by McPherson to adopt the balance of the Consent Agenda. Motion Carried 7-0.**

**LICENSES AND PERMITS:**

Approving

96-3643 4. Communication from Legal Department regarding October 28, 1996 License and Permit Agenda. **Moved by McPherson to receive and file. Motion Carried 7-0.**

Class "C" Beer Licenses

96-3644 5. Apex Oil, Inc., Patrick J. McManus, President dba Apex Oil, 1200 SE 30th Street; Renewal - Expires 11-8-96 - Application submitted 9-11-96. **Moved by McPherson to adopt. Motion Carried 7-0.**

**LICENSES AND PERMITS (continued):**

Class "E" Beer Licenses

96-3645 6. Foods, Inc., Kenneth C. Stroud, President dba Dahl's Food Market, 3710 Hubbell; Renewal - Expires 11-15-96 (With Sunday Sales) - Application submitted 10-1-96. **Moved by McPherson to adopt. Motion Carried 7-0.**

96-3646 7. Hy Vee, Inc., Ronald D. Pearson, President dba Hy Vee Food Store #6, 2700 Ingersoll; Renewal - Expires 11-07-96 (With Sunday Sales) - Application submitted 10-4-96. **Moved by McPherson to adopt. Motion Carried 7-0.**

96-3647 8. Krause Gentle Corp., W. A. Krause, President dba Kum & Go #60, 806 Southeast 14th Street; Renewal - Expires 12-14-96 (With Sunday Sales) - Application submitted 10-9-96. **Moved by McPherson to adopt. Motion Carried 7-0.**

96-3648 9. Quik Trip Corporation, Chester Cadieux, President dba Quik Trip #525, 2601 Southwest 9th Street; Renewal - Expires 12-18-96 (With Sunday Sales) - Application submitted 10-7-96. **Moved by McPherson to adopt. Motion Carried 7-0.**

96-3649 10. Quik Trip Corporation, Chester Cadieux, President dba Quik Trip #556, 1815 Hubbell Avenue; Renewal - Expires 11-6-96 (With Sunday Sales) - Application submitted 9-13-96. **Moved by McPherson to adopt. Motion Carried 7-0.**

96-3650 11. Victoria Ann Fitch dba Vickii's, 697 - 19th Street; Renewal - Expires 11-6-96 - Application submitted 10-4-96. **Moved by McPherson to adopt. Motion Carried 7-0.**

#### Class "C" Liquor Licenses

96-3651 12. The Garden, Inc., Scott Neasham, President dba The Garden, 112 Southeast 4th Street; Renewal - Expires 11-8-96 (With Sunday Sales and Beer Garden) - Application submitted 10-1-96. **Moved by McPherson to adopt. Motion Carried 5-1. Nays: Daniels. Mayor Davis declares a conflict of interest, and abstains from voting.**

96-3652 13. Dan L. Campbell dba Jim N I Lounge, 1922 Hubbell; Renewal - Expires 11-6-96 (With Sunday Sales) - Application submitted 10-1-96. **Moved by McPherson to adopt. Motion Carried 5-1. Nays: Daniels. Mayor Davis declares a conflict of interest, and abstains from voting.**

96-3653 14. Edward G. Mitchell, Jr., dba Legends, 424 East Locust; New Application (With Sunday Sales) - Application submitted 9-23-96. **Moved by McPherson to adopt. Motion Carried 6-1. Nays: Daniels.**

#### **PUBLIC IMPROVEMENTS**

15. Resolution Ordering Construction of the following:

96-3654 (A) Asbestos Removal - Martin Luther King, Jr. Parkway, Phase 3, Receiving of Bids, (11-12-96), and Setting Date of Hearing, (11-18-96), (Construction Estimate - \$127,500). **Moved by McPherson to adopt. Motion Carried 7-0.**

96-3655 (B) Martin Luther King, Jr., Parkway Demolition Contract #4N/S, Receiving of Bids, (11-12-96), and Setting Date of Hearing, (11-18-96), (Construction Estimate - \$197,000). **Moved by McPherson to adopt. Motion Carried 7-0.**

96-3656 16. Authorizing City Manager to acquire the necessary right-of-way and easements for various 1996-97 Capital Improvements Projects (see list) - \$230,000. (Council Communication No. 96-465) **Moved by McPherson to adopt. Motion Carried 7-0.**

96-3657 17. Report of Chief Civil Engineer showing construction progress, amounts due and funding availability for ICA Miscellaneous Construction and Demolition, Corell Contractor, Inc., \$2,641.00 is now due, \$28,882.92 to be paid at the end of 30 days. **Moved by McPherson to adopt. Motion Carried 7-0.**

96-3658 18. Approving Private Construction Contract for Sanitary Sewer for Druid Hill Townhomes, 2800 Druid Hill Drive between McAninch Corporation, Contractors, and Clarke Company, Ltd., Owners. **Moved by McPherson to adopt. Motion Carried 6-0. Mayor Davis declares a conflict of interest, and abstains from voting.**

19. Approving private construction contract at Easter Lake Estates - Plat 2, located at Easter Lake Drive and SE 34th Street, McAninch Corporation, Contractors, Iowa Realty Company, Inc., Owners, for the following:

96-3659 (A) Sanitary Sewer. **Moved by McPherson to adopt. Motion Carried 6-0. Mayor Davis declares a conflict of interest, and abstains from voting.**

96-3660 (B) Storm Sewer. **Moved by McPherson to adopt. Motion Carried 6-0. Mayor Davis declares a conflict of interest, and abstains from voting.**

96-3661 20. Approving partial payments on two public improvement projects (see roll call for list). **Moved by McPherson to adopt. Motion Carried 7-0.**

## **SPECIAL ASSESSMENTS**

96-3662 21. Approving Delinquent Sewer Rental and/or Solid Waste/Stormwater Utility Fees for the month of October, 1996, for Certification to Polk County Treasurer (see roll call for various amounts). **Moved by McPherson to adopt. Motion Carried 7-0.**

96-3663 22. Authorizing Assessment Clerk to correct Delinquent Solid Waste/Stormwater Utility and/or Sewer Rental Credits Schedule for October, 1996. **Moved by McPherson to adopt. Motion Carried 7-0.**

96-3664 23. Authorizing City Engineer to proceed with driveway repair at 3223 Cornell, waiver signed by property owner. **Moved by McPherson to adopt. Motion Carried 7-0.**

#### **LAND/PROPERTY TRANSACTIONS**

96-3665 24. Approving Noise and Avigation Easements for eight properties, in conjunction with the Airport Noise Compatibility Program, Phase II. **Moved by Hensley to adopt. Motion Carried 7-0.**

#### **BOARDS/COMMISSIONS/NEIGHBORHOODS**

96-3666 25. Recommendation of Council Member Tom Vlassis, (Ward I) for appointment of Betty Volm to the Neighborhood Advisory Board for three-year term to expire April 5, 1999. **Moved by McPherson to adopt. Motion Carried 7-0.**

#### **SETTING DATE OF HEARINGS**

96-3667 26. On proposed First Amendment to the Urban Renewal Plan for the Sixth Avenue Urban Renewal Area, to identify additional parcels for acquisition, (12-2-96). **Moved by McPherson to adopt. Motion Carried 7-0.**

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

96-3668 27. Approving payment in amount of \$632.53 to Ensz and Jester, P.C. for representation of William Hansen in case of Robert B. DePugh v. William Hansen, et al., Civil No. 96-0806-cv-w-5. **Moved by McPherson to approve payment. Motion Carried 7-0.**

96-3669 28. Approving payment of \$1,453.50 to Nyemaster Law Firm for representation of the City in conjunction with City employee and health care benefit proposals. **Moved by McPherson to adopt. Motion Carried 7-0.**

#### **LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS (continued)**

96-3670 29. Authorizing retention of Attorney Jane McAllister to advise and assist the City in addressing environmental concerns in the development of Riverview Park. **Moved by Phillips to adopt and authorize retention of Ms. McAllister in relation to COTA Industries, as directed by Corporation Counsel. Motion Carried 7-0.**

## **APPROVING**

96-3671 30. City Manager's Financial Report for September, 1996. (On file in City Clerk's Office) **Moved by McPherson to receive and file. Motion Carried 7-0.**

96-3672 31. Request from Drake Area Business Association submitting banner design to be displayed on various poles in the Drake Area. **Moved by McPherson to receive, file and approve the banner design as submitted. Motion Carried 7-0.**

96-3673 32. Communication from Des Moines International Airport Board submitting the Des Moines International Airport FY 1995/96 Annual Report. **Moved by McPherson to adopt. Motion Carried 7-0.**

96-3674 33. Use of various City facilities as poll sites for precincts 31, 36, 60, 64, and 82, and 83 for Local Option Tax Referendum to be held Tuesday, December 10, 1996. **Moved by McPherson to approve. Motion Carried 7-0.**

96-3675 34. Extension of Contract with the U.S. Government, Department of Navy for loan of Ship Model USS Des Moines-CA134 for display in City Hall. **Moved by Vlassis to adopt. Motion Carried 7-0.**

35. Bids for the following:

96-3676 (A) Olympic Walls Systems, Inc., (Des Moines, Les Waldow, President) for repair of fire-resistant covering at 5th & Keo Parking Garage, \$11,697. (Five bids mailed-one received). (Council Communication No. 96-462). **Moved by Hensley to adopt. Motion Carried 6-1. Pass: Flagg.**

96-3677 (B) Mobile radio communications equipment to be used by the Fire Department - from Motorola Communications and Electronics, Inc., State of Iowa Contract 1199, \$30,515.58. (Non-competitive procurement). **Moved by McPherson to adopt. Motion Carried 6-0. Mayor Davis declares a conflict of interest, and abstains from voting.**

**APPROVING (continued)**

96-3678 36. Receipt of Insurance for various City projects and functions for recording by the City Clerk. **Moved by McPherson to adopt. Motion Carried 7-0.**

96-3679 37. Authorizing Finance Director to draw warrants on register of November 1, 1996 and bills of the Des Moines Municipal Housing Agency for the week beginning October 28, 1996. **Moved by McPherson to adopt. Motion Carried 7-0.**

### **ORDINANCES - FINAL CONSIDERATION**

96-3680 38. Amending Chapter 27 of the Municipal Code regarding the following traffic regulation changes: Corner clearances on the north side of Clark street east and west of 14th Street, east side of 14th Street south of Norton, and north side of Filmore west of Pine Street; Designate Hartford between SE 14th and SE 22nd as a through "STOP" street, with speed limit of 40 MPH; and request for one-way street operation on 56th Street from University to Brattleboro. **Moved by McPherson that this ordinance do now pass, #13,387. Motion Carried 7-0.**

### **ORDINANCES - SECOND CONSIDERATION**

96-3681 39. Amending Chapter 27 of the Municipal Code regarding corner clearances for the following: East side of SW 8th South of Park, South side of E. Hughes East of SE 5th, West side of 29th North of Grand, West side of 29th South of Ingersoll, and on the West side of Tomlin Lane North of Guthrie. **Moved by McPherson that this ordinance be considered and given second vote for passage. Motion Carried 7-0.**

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

### **ORDINANCES - FIRST CONSIDERATION**

96-3682 40. Amending Chapter 27 of the Municipal Code regarding request for a four-way stop at the intersection of 42nd and Greenwood Drive; and request to designate Parking Meter M-510 as a Handicapped Space. **Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 7-0.**

## **ORDINANCES - FIRST CONSIDERATION (continued)**

96-3683 41. Amending Chapter 26 of the Municipal Code regarding Cable Television definition of Gross Revenues. **Moved by Vlassis that this ordinance be considered and given first vote for passage. Motion Carried 6-1. Pass: Flagg.**

96-3684 (A) Final consideration of ordinance above, (wavier requested by Legal Department). **Moved by Vlassis that the rule requiring that ordinances must be considered, and voted on for passage at two council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, #13,388. Motion Carried 6-1. Pass: Flagg.**

**\*\*Council considered items 46 through 49 next\*\***

## **INFORMAL HEARINGS (Opened at 5:36 P.M.) (Item 42)**

96-3685 42. Communication from James L. Bennett, Attorney at Law, representing Conservatorship & Guardianship of Mabel E. Sampson requesting to speak concerning development of two family dwelling in vicinity of 3308 Leado Avenue, and representing written application for relief from recent moratorium. **Moved by Vlassis to grant the request to speak, and close the Hearing. Motion Carried 6-1. Absent: Flagg.**

96-3686 (A) Resolution **denying** appeal for relief from Moratorium on Construction of Two-Family Dwellings. **Moved by Vlassis to adopt. Motion Carried 6-1. Absent: Flagg.**

96-3687 (B) Resolution **granting** appeal for relief from Moratorium on

**WITHDRAWN** construction of two-family Dwellings.

**\*\*Council Member Flagg left the meeting at 6:10 P.M.\*\***

\* \* END INFORMAL HEARINGS at 6:17 P.M. \* \*

**HEARINGS (Opened at 6:17 P.M.) (Items 43 thru 45)**

96-3688 43. On proposed vacation and conveyance of City property in the vicinity of SW Second and Jackson, to Baker Electric, Inc., \$6,580. **Moved by Phillips to adopt. Motion Carried 6-1. Absent: Flagg.**

96-3689 (A) First consideration of ordinance above, (pre-published, requires two readings). **Moved by Phillips that this ordinance be considered and given first vote for passage. Motion Carried 6-1. Absent: Flagg.**

96-3690 44. On vacation and conveyance of the north/south alley right-of-way between E. Shawnee Avenue and E. Aurora Avenue, in vicinity of 4142 Amherst. **Moved by McPherson to adopt. Motion Carried 6-1. Absent: Flagg.**

96-3691 (A) First consideration of ordinance above. **Moved by McPherson that this ordinance be considered and given first vote for passage. Motion Carried 6-1. Absent: Flagg.**

96-3692 (B) Final consideration of ordinance above, (waiver requested by applicant). **Moved by McPherson that the rule requiring that ordinances which have been published, or summaries of which have been published, prior to consideration must be voted upon at one meeting for passage by the City Council prior to the meeting at which it is to be finally passed be suspended, that the first consideration be waived, that the ordinance be placed upon its final passage and that the ordinance do now pass, #13,389. Motion Carried 6-1. Absent: Flagg.**

96-3693 45. On Zoning Ordinance Amendment regarding concentration of new duplexes in existing "R-2" single family and duplex districts, and to refer back to Plan and Zoning Commission for reconsideration. **Moved by McPherson to adopt; consider density of entire City to preserve home values and the community by reviewing zoning for the City as a**



**whole. Motion Carried 6-1. Absent: Flagg.**

\* \* END HEARINGS at 6:55 P.M. \* \*

**\*\*Council considered Item 50 through end of agenda next\*\***

## **APPROVING**

96-3694 46. Renewal of Intergovernmental 28E Agreement with Des Moines Park and Recreation Board and Dowling High School for use of school facility for Special Olympics Program in 1997. (Council Communication No. 96-463). **Moved by Phillips to adopt. Motion Carried 6-0. Council Member McPherson declares a conflict of interest, and abstains from voting.**

96-3695 47. Grant applications to United States Soccer Federation Foundation, Inc. for Greater Des Moines Soccer Park, S.E. 22nd Street and Hartford Avenue - \$420,600. (Council Communication No. 96-464). **Moved by Flagg to adopt. Motion Carried 7-0.**

96-3696 48. Approving recommendation of the Employee Evaluation Sub-Committee regarding City Manager Eric Anderson. **Moved by Vlassis to adopt. Motion Carried 7-0.**

96-3697 49. Approving recommendation of the City Council Health Benefits Subcommittee to establish retiree health insurance premiums effective December 1, 1996 to September 30, 1997. (Council Communication No. 96-461). **Moved by Vlassis to defer action to 11-4-96. City Manager and Legal to provide information regarding a summary of options from the series of meetings; what State Law allows regarding insurance coverage and payment of premiums; whether we are compelled to carry insurance for retirees; and, include data/legislation from the State. Motion Carried 7-0.**

**\*\*Council considered Hearing Items 42 through 45 next\*\***

96-3898 50. Service Agreement with U.S. West Communications, Inc. for enhancement of current Frame Relay Connections between Four Community Development site offices and Armory computer network - \$16,499.04. (Council Communication No. 96-460). **Moved by Vlassis to adopt. Motion Carried 5-1. Absent: Phillips. Mayor Davis declares a conflict of interest, and abstains from voting.**

#### **APPROVING (continued)**

96-3699 51. Designation of City Plan and Zoning Commission, City Manager, Community Development, Police Department and Legal Department to study use of nuisance abatement procedure and/or conditional use permits. **Moved by Daniels to adopt. Council directed staff to proceed in two (2) phases; (1) move along as soon as possible to utilize nuisance abatement with an ordinance amendment from Legal; (2) continue to study and develop a conditional use permit utilizing the Task Force; then on to the Neighborhood Advisory Board and City Plan Commission for a final ordinance amendment to the Council. Staff and Task Force to also study the issue of "Attractive Nuisances", such as public telephones. Motion Carried 6-1. Absent: Flagg.**

#### **COUNCIL REQUESTS**

96-3700 52. From Council Member Mike McPherson and Ann Pierschbacher to

**WITHDRAWN** discuss resolution of reversal of State preemption of local tobacco related ordinances.

## COMMUNICATIONS/REPORTS

96-3701 53. Petition from residents in the area bounded by E. 29th, E. 25th, E. Euclid and Aurora, requesting elimination of the present R-2 Zoning in their neighborhood. **Moved by McPherson to receive, file and refer to City Plan Commission, including map, as a part of the existing study. Motion Carried 6-1. Absent: Flagg.**

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## 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.**

96-3702 1. Oral request of Council Member Vlassis to discuss monopole placement in Parks, and notice sent to residents in area of Witmer Park. SPONSOR: Vlassis. **Moved by Vlassis to receive, file and discuss. Staff to continue to utilize existing policy recently adopted by Council regarding placement of monopoles. Motion Carried 6-1. Absent: Flagg.**

## EXTRA ITEMS (continued)

96-3703 2. Resolution to approve and accept negotiated offers to purchase Parcels Nos. K-8 thru K-28 and K-51 thru K-58, (south of Mattern and east of DeWolf), to facilitate expansion of the Fred Nesbit Distributing Company in the Guthrie Avenue Business Park Urban Renewal Area. SPONSOR: McPherson. (Council Communication No. 96-466). **Moved by McPherson to approve. Motion Carried 5-2. Absent: Flagg and Vlassis.**

## A G E N D A

### BOARD OF HEALTH October 28, 1996

96-3704 MOTION TO CONVENE. **Moved by Vlassis that the City Council Adjourn and Convene as a Board of Health. Motion Carried 6-1. Absent: Flagg.**

## COMMUNICATION

96-3705 1. Communication regarding Release of Demolition Cost reserve escrowed for 128 East Bell Avenue. **Moved by Vlassis to adopt. Motion Carried 6-1. Absent: Flagg.**

## **AUTHORIZING**

2. Court authority to abate the public nuisance at the following locations:

96-3706 (A) 811 Filmore, vacant, TITLEHOLDER(S): Raymond A. Manson and Gertrude Manson. **Moved by McPherson to delete this property from demolition schedule of action -- property has been rehabilitated. Motion Carried 6-1. Absent: Flagg.**

96-3707 (B) 1338 DeWolf, vacant, TITLEHOLDER(S): Kristine Corcoran Frye, as Attorney for the Estate of Thomas L. Peck, and Thomas L. Peck Estate, ATTN.: Beverly Burkett, Administrator. **Moved by McPherson to adopt. Motion Carried 6-1. Absent: Flagg.**

96-3708 (C) 229 East Lally, vacant, TITLEHOLDER: Dale Storm; LEGAL INTEREST HOLDER(S): Polk County, Iowa, C/O General Services Department, ATTN.: Frank Mauro or Vicki Miklus, Polk County Iowa, ATTN.: Eliza Ovrom, Assistant County Attorney, Chief of Civil Bureau, Polk County, Iowa, ATTN.: Bob Raker, Administrative Analyst II, General Services Department, and Polk County, Iowa, ATTN.: Norman Jesse. **Moved by McPherson to adopt. Motion Carried 6-1. Absent: Flagg.**

## **BOARD OF HEALTH (continued)**

96-3709 2. (D) 3828 - 15th Street, vacant, TITLEHOLDER(S): Elmer W. Gravitt and Delores A. Gravitt. **Moved by McPherson to adopt. Motion Carried 6-1. Absent: Flagg.**

96-3710 (E) 1774 Lyon, vacant, TITLEHOLDER(S): Herbert E. Ellis, Janice M. Ellis, Laverne R. Anderson and Maxine L. Anderson; CONTRACT BUYER: Ranchland Co., ATTN.: Clarence DeBoom, Registered Agent; LEGAL INTEREST HOLDER: Bankers Trust Company of California, N.A., C/O Chase-Manhattan, ATTN.: Bob Clark. **Moved by McPherson to adopt. Motion Carried 5-1. Absent: Flagg. Mayor Davis declares a conflict of interest, and abstains from voting.**

96-3711 (F) 1317 - 3rd Street, vacant; TITLEHOLDER(S): Janet L. Lohner, and Donald Lohner. **Moved by McPherson to adopt. Motion Carried 6-1. Absent: Flagg.**

96-3712 3. Demand for payment from insurance costs reserve to the City of Des Moines for removal of the structure at 2502 Onawa owned by John Braathen. **Moved by McPherson to adopt. Motion Carried 6-1. Absent: Flagg.**

96-3713 MOTION TO ADJOURN. **Moved by McPherson to adjourn at 8:03 P.M. Motion Carried 6-1. Absent: Flagg.**