

*** DES MOINES CITY COUNCIL MEETING REPORT ***

The City Council took the following action on items listed in the attached meeting agenda summary. Copies of ordinances, resolutions and other Council action may be obtained from the City Clerk's Office (515) 283-4209. The six-digit number beginning with '09-' preceding each item on the agenda is a roll call number assigned by the City Clerk. Please refer to this number when requesting information or copies.

SUMMARY OF DES MOINES CITY COUNCIL MEETING

November 9, 2009 4:30 P.M.

SPECIAL PRESENTATION

Friends of Des Moines Parks – Check Presentation

PROCLAMATIONS

Hunger and Homeless Awareness Week

National Geographic Information System Day

INVOCATION: Pastor Carol Archer

College Avenue Christian Church

4440 College Avenue

- 1. ROLL CALL: Present: Cownie, Coleman, Hensley, Mahaffey and Meyer. Absent: Vlassis and Kiernan. Council Member Vlassis entered the meeting during item 3.
- 09-1987
 2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED: Moved by Hensley to adopt. Motion Carried 5-2.
- <u>09-1988</u> 3. APPROVING CONSENT AGENDA items 3 through 41: **Moved by Hensley to adopt** the balance of the Consent Agenda. Motion Carried 6-1.

*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

<u>O9-1989</u>
4. <u>Approving</u> Alcoholic Beverage License Applications for the following: **Moved by** Hensley to adopt. Motion Carried 6-1.

NEW APPLICATIONS

(A)	EL SIETE MARES MEXICAN	2811 SE 14TH ST	B Beer
(B)	HY VEE WINE SHOP	730 3RD ST	C Beer
(C)	J & J PIZZA PUB	1246 E 14TH ST	C Liquor
(D)	OPEN SESAME	313 E LOCUST ST	— C Liquor

RENEWAL APPLICATIONS

(E)	BIANCHIS HILLTOP	2820 HUBBELL	C Liquor
(F)	GIT N GO STORE #6	5736 FRANKLIN	C Beer
(G)	HIGH LIFE LOUNGE	200 SW 2ND ST	C Liquor
(H)	HY VEE GAS #4	4701 FLEUR DR	C Beer
(I)	JEANNIES BOTTLE	3839 MERLE HAY	C Liquor
(J)	MIYABI 9	512 E GRAND AVE	C Beer/Wine
(K)	PALMERS PUB	1030 E 9TH ST	C Liquor
(L)	PARK AVENUE PUB	1101 PARK AVE	C Liquor
(M)	ROYAL MILE	210 4TH ST	C Liquor
(N)	RUSTYS	2565 WEDGEWOOD	C Liquor
(O)	ZIMMS	3124 INGERSOLL	C Liquor

09-1990 5. <u>City</u> Clerk to issue Coin Operated Machine Licenses. **Moved by Hensley to adopt. Motion Carried 6-1.**

PUBLIC IMPROVEMENTS

6. Ordering construction of the following:

WITHDRAWN

09-1991

- (A) <u>Court Avenue & Water Street Gatewell and River Outlet: Receiving of bids, (11-24-09), and Setting date of hearing, (12-7-09). (Construction Estimate \$537,790). (Council Communication No. 09-787)</u>
- 09-1992
 (B) Army Post Road Widening SW 9th Street to SE 5th Street: Receiving of bids, (11-17-09), and Setting date of hearing, (12-7-09). (Construction Estimate -\$2,072,906.75). (Council Communication No. 09-785) Moved by Hensley to adopt. Motion Carried 6-1.

- 7. Approving Professional Services Agreement with Shuck-Britson, Inc. for Principal Park Facility Assessment, not to exceed \$32,000. (Council Communication No. 09-778)

 Moved by Hensley to adopt. Motion Carried 6-1.
- 8. <u>Approving Change Order No. 3 with Truesdell Corporation of Wisconsin, Inc. for Fleur Drive Bridge over Raccoon River Rehabilitation, not to exceed \$103,764.51. (Council Communication No. 09-777) Moved by Hensley to adopt. Motion Carried 6-1.</u>
- 9. Approving Iowa Department of Transportation (IDOT) Change Order No. 22 to Ingersoll Run Phase 2 Storm Sewer Outlet, not to exceed \$41,480.07. (Council Communication No. 09-775) Moved by Hensley to adopt. Motion Carried 6-1.
- 10. <u>Approving</u> completion and acceptance of the Private Construction Contract for paving improvements, E. 4th Street from E. Grand Avenue to Des Moines Street between Eco-Tech Construction, LLC and Nelson Development 15, LLC. **Moved by Hensley to adopt.**Motion Carried 6-1.
 - 11. Accepting completed construction and approving final payment for the following:
- 09-1997

 (A) <u>Baker</u> Electric Inc., E. 29th Street and Hubbell Avenue Traffic Signal Upgrade. **Moved by Hensley to adopt. Motion Carried 6-1.**
- 09-1998

 (B) OMG Midwest, Inc. d/b/a Des Moines Asphalt & Paving Fleur Drive/Blue Street Resurfacing Beardsley Street to SW 9th Street. **Moved by Hensley to adopt. Motion Carried 6-1.**
- 09-1999 (C) <u>C.A.C.</u>, Inc. American Discovery Trail Wetlands Mitigation. **Moved by Hensley to adopt. Motion Carried 6-1.**

SPECIAL ASSESSMENTS

- 12. Levying assessments for costs of Nuisance Abatement NAC Emergency Orders for the following:
- (A) <u>Schedule</u> No. 2009-18 (Public Works). **Moved by Hensley to adopt. Motion** Carried 6-1.
- 09-2001 (B) Schedule No. 2009-19 (Community Development). Moved by Hensley to adopt. Motion Carried 6-1.

LAND/PROPERTY TRANSACTIONS

- 13. <u>Authorizing</u> and approving release of easement from storm sewer right-of-way and accepting replacement easement for storm sewer right-of-way for property at 2810 35th Street. **Moved by Hensley to adopt. Motion Carried 6-1.**
- 14. Authorizing and approving conditional assignment of lease for building encroachment on a portion of City-owned property at 1249 McKinley Avenue. **Moved by Hensley to adopt.**Motion Carried 6-1.
- 15. Approving release of easement for crossing of street maintenance equipment on property at 301 SW 14th Street. **Moved by Hensley to adopt. Motion Carried 6-1.**
- 16. <u>Approving</u> 80 Tax Abatement Applications for the additional value added by improvements completed during 2009. (<u>Council Communication No. 09-779</u>) **Moved by Hensley to adopt. Motion Carried 6-1.**
- 17. Approving Tax Abatement Application for 3614 Park Side Drive for the additional value added by improvements completed during 2007. (Council Communication No. 09-767)

 Moved by Hensley to adopt, and to request that the Polk County Assessor apply the tax abatement retroactively to the extent possible as if the application had been timely forwarded by the City to the Assessor prior to March 1, 2008. Motion Carried 6-1.
- 18. <u>Authorization</u> to proceed with acquisition of necessary right-of-way and easements for the E. 33rd Street and Easton Boulevard Intersection Improvements Project. (<u>Council Communication No. 09-783</u>) **Moved by Hensley to adopt. Motion Carried 6-1.**

SETTING DATE OF HEARINGS

- 19. On conveyance of City-owned property adjoining 1404 Emma Avenue to Nicholas P. Tursi, \$100, (11-23-09). **Moved by Hensley to adopt. Motion Carried 6-1.**
- 20. On corrected conveyance of segment of east/west alley running west of Martin Luther King Jr. Parkway between Washington and Mondamin Avenue to Frederick Robert Hews, (11-23-09). Moved by Hensley to adopt. Motion Carried 6-1.

LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS

- 21. <u>Approving</u> payment of \$1,964.70 to Peddicord, Wharton, Spencer, Hook, Barron & Wegman, L.L.P. for representation of Police Officer Mersed Dautovic. **Moved by Hensley to adopt. Motion Carried 6-1.**
- 22. Approving payment of \$41,498.67 to Trust Account of Lawyer, Daugherty, Palmer and Flansburg, attorneys for Bruce Buldhaupt for final and binding judgment against the City of Des Moines. **Moved by Hensley to adopt. Motion Carried 6-1.**

- 23. Approving increasing the amount of authorization for employment of Hall & Associates to provide services related to the Combined Sewer Overflow and NPDES Permit for the Wastewater Reclamation Facility by an additional \$25,000 and payment of \$11,361.13. **Moved by Hensley to adopt. Motion Carried 6-1.**
 - 24. Approving payment for workers' compensations claims to the following:
- 09-2013 (A) Justin Maschke, \$22,972.22. Moved by Hensley to adopt. Motion Carried 6-1.
- 09-2014 (B) Brian McKenzie, \$23,821.36. Moved by Hensley to adopt. Motion Carried 6-1.
- (C) Michelle Mills and her attorney, Tom Werner, \$168,054.37. Moved by Hensley to adopt. Motion Carried 6-1.
- 09-2016 (D) Kevin Strawn, \$9,741.26. Moved by Hensley to adopt. Motion Carried 6-1.
- <u>09-2017</u> 25. <u>Assignment</u> and Assumption of Claims Agreement with Elder Corporation for damage to Cownie Soccer Fields. **Moved by Hensley to adopt. Motion Carried 6-1.**

APPROVING

- 26. 2008 Supportive Housing Program (SHP) Renewal Grant Agreements with the United States Department of Housing and Urban Development (HUD). (Council Communication No. 09-766) Moved by Hensley to adopt. Motion Carried 6-1.
- 27. <u>Publication</u> of the notice to the public of Finding of No Significant Impact on the Environment for funds from the Iowa Department of Economic Development from the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009. (Council Communication No. 09-772) **Moved by Hensley to adopt. Motion Carried 6-1.**
- 28. Execution of Addendum to Agreement with Polk County Housing Trust Fund to include an additional \$8,335 for the Owner-Occupied Lead Remediation Program. (Council Communication No. 09-793) Moved by Hensley to adopt. Motion Carried 6-1.
- 29. Template format of Lien and Mortgage documents to be used within the City of Des Moines Jumpstart Housing Assistance Program. (Council Communication No. 09-794)

 Moved by Hensley to approve. Motion Carried 6-1.
- 30. Memorandum of Agreement (MOA) with the Iowa State Historic Preservation Office (SHPO), Hatch Development Group and Robert W. McCammon for the MLK Brickstone project regarding removal of structure at 1039 19th Street. (Council Communication No. 09-799) Moved by Hensley to adopt. Motion Carried 6-1.

- 31. <u>Amendment</u> to the Schedule of Administrative Penalties to provide the civil penalty amounts for violation of the Automated Traffic Enforcement Ordinance. (<u>Council Communication No. 09-800</u>) **Moved by Hensley to adopt. Motion Carried 6-1.**
 - 32. Applications by Hubbell Terminal Corporation to the Iowa Department of Economic Development for the following: (Council Communication No. 09-798)
- (A) <u>Brownfield</u> Redevelopment Program. **Moved by Hensley to adopt. Motion Carried** 6-1.
- (B) <u>Brownfield</u> Redevelopment Tax Credits. **Moved by Hensley to adopt. Motion** Carried 6-1.
- 33. Gannett Satellite Information Network (GANSAT), Inc. application to the Iowa Department of Economic Development for enterprise zone benefits regarding a project in the Gateway Enterprise Zone. (Council Communication No. 09-797) Moved by Hensley to approve. Motion Carried 6-1.
- 34. <u>Grant</u> Agreement with Iowa Homeland Security Emergency Management (HLSEM) to administer funds for 20 county area referred to as Law Enforcement Intelligence Network (LEIN) Region 5 from April 1, 2009 through May 31, 2011. (<u>Council Communication No. 09-774</u>) **Moved by Hensley to approve. Motion Carried 6-1.**
- 35. <u>Contract</u> with RCC Consultants Incorporated (Mike Hunter, President, Tallahassee, Florida) to serve as the Public Safety Radio Interoperability consultant in completion of Phase 2 of Metro Interoperability Communications System, \$85,348. (<u>Council Communication No. 09-786</u>) Moved by Hensley to adopt. Motion Carried 6-1.
- 36. Thirty (30)-day suspension of Cigarette Permit for Kum & Go #552, 4944 Douglas Avenue, for violation of Iowa's cigarette laws (sales to minor). Moved by Hensley to adopt. Motion Carried 6-1.
- 37. <u>Initiating</u> proposal to name a portion of US Highway 69 extending north from E. County Line Road to where it converges with SE 14th Street as "Southridge Boulevard". (<u>Council Communication No. 09-773</u>) **Moved by Hensley to adopt. Motion Carried 6-1.**
- 38. <u>Use</u> of various City facilities as poll sites for the City Run-Off Election to be held on December 1, 2009. **Moved by Hensley to approve.** City Clerk will notify the Parks Department and the Municipal Housing Department to arrange access to the buildings. Motion Carried 6-1.

- 39. Bids from the following:
- (A) Ahura Scientific, Inc. (Daryoosh Vakshoori, President) for one handheld chemical detector to match existing equipment and technology for use by the Bomb Squad and the Fire Department Hazardous Materials Team, \$39,000. (Council Communication No. 09-790) Moved by Hensley to adopt. Motion Carried 6-1.
- (B) <u>ICOR</u> Technology (Hany Guirguis, President) for one bomb disposal robot for use by the Bomb Squad, \$67,384.35. (<u>Council Communication No. 09-788</u>) **Moved by Hensley to adopt. Motion Carried 6-1.**
- (C) <u>Smiths</u> Detection (Stephen Phipson, President) for portable gas and vapor identifier equipment per State of Iowa Contract for use by the Bomb Squad and the Fire Department Hazardous Materials Team, \$64,606. (<u>Council Communication No. 09-789</u>) **Moved by Hensley to adopt. Motion Carried 6-1.**
- <u>09-2035</u> 40. <u>Civil</u> Service Promotional List for Senior Housing Case Manager. **Moved by Hensley to** receive and file. **Motion Carried 6-1.**
- 41. <u>Authorizing</u> Finance Director to draw checks on <u>registers</u> for the weeks of November 9 and November 16, 2009; to draw checks for <u>bills</u> of the Des Moines Municipal Housing Agency for the weeks of November 9 and November 16, 2009; and to draw checks for biweekly payroll due November 20, 2009. **Moved by Hensley to adopt. Motion Carried** 6-1.

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ORDINANCES - FIRST CONSIDERATION

WITHDRAWN

<u>09-2037</u>
42. <u>Amending Chapter 74 of the Municipal Code regarding rentals in the Western Gateway</u>
Park.

COMMUNICATIONS/REPORTS

- 09-2038

 43. From Una Ray, 1315 E. 16th Street, to speak regarding Handy Man service for the community. Moved by Hensley to receive and file comments; refer to the City Manager to follow-up with Ms. Ray. Motion Carried 6-1.
- 44. From Terry Wells, 1157 14th Place, to speak regarding matters of the Central Iowa Services Shelter (CISS) and the homeless in the Des Moines area. Moved by Vlassis to receive and file comments; refer to the City Manager for review and recommendation. Motion Carried 6-1.

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HEARINGS (OPEN AT 5:03 P.M.) (ITEMS 45 THRU 54)

- 45. On Application for Certificate of Public Convenience and Necessity to operate limousine services for Michael G. Marks d/b/a Marks Limousine Service. (Council Communication No. 09-780) Moved by Hensley to adopt. Motion Carried 6-1.
- 46. On vacation and conveyance of the north/south alley adjoining 101 SW 5th Street to Rumely Lofts Limited Partnership, \$13,959. (continued from 10-26-09) (Council Communication No. 09-782) Moved by Hensley to adopt. Motion Carried 6-1.
- (A) <u>First</u> consideration of ordinance above. **Moved by Hensley that this ordinance be** considered and given first vote for passage. Motion Carried 6-1.
- (B) Final consideration of ordinance above (requested by Sherman Associates), requires six votes. Moved by Hensley that the rule requiring that an ordinance 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, #14,907.

 Motion Carried 6-1.
- 47. 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. (Plan and Zoning Commission recommends DENIAL) Moved by Mahaffey to deny. Motion Carried 6-1.
- (A) Amend 2020 Community Character Plan future land designation from Commercial: Auto-Oriented Small-Scale Strip Development to General Industrial. (Plan and Zoning Commission recommends DENIAL) Moved by Mahaffey to deny the proposed amendment. Motion Carried 6-1.
- 48. 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.

 Moved by Meyer to adopt and approve the rezoning subject to final passage of the rezoning ordinance with two conditions: 1. If the business closes, the City Council will initiate rezoning. 2. A neighborhood meeting is to be held after the business has been open for 3 months, to address any issues. Motion Carried 6-1.
- (A) Amend the 2020 Community Character Plan future land use designation from Low-Density Residential to Commercial: Pedestrian-Oriented Neighborhood Node. Moved by Meyer to adopt and approve the proposed amendment. Motion Carried 6-1.
- (B) <u>Letter</u> and petitions in support. **Moved by Meyer to receive and file. Motion** Carried 6-1.

- 09-2049 (C) Petition in opposition. Moved by Meyer to receive and file. Motion Carried 6-1.
- (D) <u>First</u> consideration of ordinance above. **Moved by Meyer that this ordinance be** considered and given first vote for passage. Motion Carried 6-1.
- (E) Final consideration of ordinance above, requires six votes. Moved by Meyer that the rule requiring that an ordinance 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, #14,908. Motion Carried 6-1.
- 49. 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. (Council Communication No. 09-776) Moved by Hensley to adopt and approve, subject to final passage of the enacting ordinance. Motion Carried 6-1.
- (A) <u>First</u> consideration of ordinance above. **Moved by Hensley that this ordinance be** considered and given first vote for passage. Motion Carried 6-1.
- (B) Final consideration of ordinance above (waiver requested by Community Development Director), requires six votes. Moved by Hensley that the rule requiring that an ordinance 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, #14,909. Motion Carried 6-1.
- 50. On proposed First (2010) Year Action Plan of the 2010-2014 U.S. Department of Housing and Urban Development (HUD) Consolidated Plan. (Council Communication No. 09-771) Moved by Hensley to adopt the following: 1. Approve the City Manager's recommendations for 2010, with an amendment to allocate an additional \$10,000 to the Drake Neighborhood Historic Survey and reduce the funding in the NIRP Program. 2. Allow discussion with NRB, United Way and others regarding the process for future years, and come back at the December 21st Council meeting with a recommendation. 3. City Manager to provide recommendations for implementation of necessary policy changes and procedures. 4. Share Council's intent to reduce future funding for agencies, and ask the agencies to provide their plans for the reductions. Motion Carried 6-1.
- (A) Approving comprehensive strategy environmental review record, Publication of Notice on Finding of No Significant Impact on the Environment and of intent to request release of funds. Moved by Hensley to adopt. Motion Carried 6-1.
- (B) <u>Communication</u> from Neighborhood Revitalization Board. **Moved by Hensley to receive and file. Motion Carried 6-1.**

- 51. On intent to acquire agricultural property and authorize acquisition of the necessary property interests at the northeast corner of Army Post Road and E. Indianola Avenue from Lemar Koethe for the E. Army Post Trunk Sanitary Sewer Project. (Council Communication No. 09-781) Moved by Hensley to adopt. Motion Carried 6-1.
- On 2009 Sewer Repair Contract 2: 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), \$329,808.70. (Council Communication No. 09-792) Moved by Vlassis to adopt. Motion Carried 6-1.
- (A) Approval of contract and bond, and permission to sublet. Moved by Vlassis to adopt. Motion Carried 6-1.
- <u>On</u> Livingston Avenue Storm Sewer Televising: Resolution approving plans, specifications, form of contract documents, engineer's estimate and designating lowest responsible bidder as Priority Excavating LLC, (Toby Torstenson, President), \$251,000. (Council Communication No. 09-796) Moved by Meyer to adopt. Motion Carried 6-1.
- (A) Approval of contract and bond, and permission to sublet. Moved by Meyer to adopt. Motion Carried 6-1.
- On Police Academy HVAC Upgrade: Resolution approving plans, specifications, form of contract documents, engineer's estimate and designating lowest responsible bidder as Brockway Mechanical & Roofing Company, Inc., (Mark J. Brockway, President & CEO), \$92,470. (Council Communication No. 09-791) Moved by Meyer to adopt. Motion Carried 6-1.
- (A) Approval of contract and bond, and permission to sublet. Moved by Meyer to adopt. Motion Carried 6-1.

END HEARINGS AT 6:35 P.M.

APPROVING

55. Establishing fair market value and authorizing voluntary acquisition of property at 4315 SE 14th Street from Phyllis and Harold Rogers for the SE 14th Street and Army Post Road Revitalization Project, \$210,000. (Council Communication No. 09-784) Moved by Meyer to adopt. Motion Carried 6-1.

56. Consideration of appeal by Crow's Auto Service, Inc. on Finance Director's decision to award impound towing and storage contract bid to G & S Service, Inc. and award of bid to the following:

09-2066

(A) <u>ALTERNATE</u> 1 – Accepting Finance Director's decision on appeal of bid award recommendation for impound towing and storage contract to G & S Service, Inc. and approving award of contract to G & S Service, Inc. (<u>Council Communication No. 09-795</u>) Moved by Mahaffey to adopt; refer to the City Manager to monitor performance measures and complaints, and to provide a report prior to renewal of the contract. Any serious issues will come to Council immediately. Motion Carried 5-1-1. Nays: Vlassis. Absent: Kiernan.

WITHDRAWN

<u>09-2067</u>

(B) <u>ALTERNATE</u> 2 - Overruling Finance Director's decision on appeal of bid award recommendation for impound towing and storage contract and approving award of contract to Crow's Auto Service, Inc.

09-2068 MOTION TO ADJOURN. Moved by Coleman to adjourn at 7:30 PM. Motion Carried 6-1.

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