



***** 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 '11-' 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

March 14, 2011

INVOCATION: Council Member Moore

- [11-0413](#) 1. ROLL CALL: **Present: Cownie, Coleman, Griess, Hensley, Mahaffey, Meyer and Moore.**
- [11-0414](#) 2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED: **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0415](#) 3. APPROVING CONSENT AGENDA * – items 3 through 30: **Moved by Hensley to adopt the balance of the consent agenda. Motion Carried 7-0.**

***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

- [11-0416](#) 4. **Approving Alcoholic Beverage License Applications for the following: Moved by Hensley to adopt. Motion Carried 7-0.**

NEW APPLICATIONS

(A) 4TH DOWN SPORTS BAR	215 4TH ST	C Liquor
(B) GAS LAMP	1501 GRAND AVE	C Liquor
(C) KELLYS	1701 E GRAND AVE	C Liquor

- [11-0420](#) 7. [Approving](#) contract and bond for construction of an improvement, the estimated cost of which is less than the Iowa Code competitive bid threshold, 3021 Deep Woods Court Sanitary Sewer Repair, Drake Construction, LC, (Ronald Drake, Manager), \$58,385. ([Council Communication No. 11-146](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0421](#) 8. [Approving](#) agreements with MidAmerican Energy for electrical service in conjunction with Court Avenue Pump Stations Project, not to exceed \$34,974.49. ([Council Communication No. 11-152](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0422](#) 9. [Approving](#) Supplemental Agreement No. 1 to Army Post Road and Indianola Avenue Culvert Extension Professional Services Agreement with Foth Infrastructure and Environment, LLC for design and construction phase services to comply with US Army Corps of Engineers permit requirements, not to exceed \$26,250. ([Council Communication No. 11-155](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0423](#) 10. [Approving](#) Change Order No. 1 with Strong Tower Construction, LLC d/b/a Koch Corporation for additional work on City Hall Window Replacement, not to exceed \$61,264. ([Council Communication No. 11-158](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0424](#) 11. [Approving](#) Change Order No. 2 with Correll Contractor, Inc. for additional work on Riverpoint Trunk Sewer Separation and Pump Stations, not to exceed \$152,602. ([Council Communication No. 11-154](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**

SPECIAL ASSESSMENTS

- [11-0425](#) 12. [Levying](#) assessments for costs of Nuisance Abatement – NAC Emergency Orders (Community Development) Schedule No. 2011-03. **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0426](#) 13. [Levying](#) assessments for fees, fines, penalties, costs and interest imposed in the enforcement of the Neighborhood Inspection Rental Code Schedule No. 2011-02. **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0427](#) 14. [Approving](#) deletion of rental inspection assessment at 2430 Capitol Avenue. **Moved by Hensley to adopt. Motion Carried 7-0.**

LAND/PROPERTY TRANSACTIONS

- [11-0428](#) 15. [Authorization](#) to proceed with acquisition of necessary right-of-way and easements for various flood protection maintenance and system improvements along the Des Moines and Raccoon Rivers. ([Council Communication No. 11-145](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**

SETTING DATE OF HEARINGS

- [11-0429](#) 16. [On](#) vacation of north/south alley right-of-way, south of Mulberry Street and west of vacated 13th Street, (3-28-11). **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0430](#) 17. [On](#) conveyance of four underground electric line easements on various City-owned properties to MidAmerican Energy Company, \$1 each, (3-28-11). **Moved by Hensley to adopt. Motion Carried 7-0.**

LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS

18. Approving workers' compensation claims for the following:
- [11-0431](#) (A) [Timothy](#) Howser, \$27,628.82. **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0432](#) (B) [Michael](#) Palik, \$7,146.83. **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0433](#) (C) [Fran](#) Deaton, \$19,980.40. **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0434](#) 19. [Approving](#) payment of \$649.28 to Enterprise Rent-A-Car for Erin McKinney as the result of an auto accident. **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0435](#) 20. [Approving](#) payment of \$2,586.40 to Glenna Calhoun and \$5,000 to State Auto Insurance Companies as the result of a sewer connection problem. **Moved by Hensley to adopt. Motion Carried 7-0.**

CITY MANAGER COMMUNICATIONS

- [11-0436](#) 21. [Submitting](#) travel and training requests for Joseph Leo, Tim Nemmers, Kenneth Robinson, Daniel Schellhase and Michael West. ([Council Communication No. 11-165](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**

APPROVING

- [11-0437](#) 22. [Amended](#) and Restated Urban Development Action Grant: City/Developer Loan Agreement and Third Amendment to Open-End Second Mortgage and Security Agreement with Hubbell Realty Company for Kaleidoscope. ([Council Communication No. 11-144](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**

- [11-0438](#) 23. [Amended](#) and Restated Master Subordination Agreement and Estoppel Certificate with Vine Street Limited Partnership for refinancing of Vine Street Lofts, 101 2nd Avenue. ([Council Communication No. 11-159](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**

- [11-0439](#) 24. [Acceptance](#) of \$25,000 Community Development Grant award and agreement with Polk County for Des Moines River Trail, Phase 1. ([Council Communication No. 11-161](#)) **Moved by Hensley to approve. Motion Carried 7-0.**

- [11-0440](#) 24-I [Trail](#) alignment for Walnut Creek Trail 63rd Street Trail Connector and agreement with West Des Moines for the funding, design and construction. ([Council Communication No. 11-160](#)) **Moved by Hensley to approve. Motion Carried 7-0.**

- [11-0441](#) (A) [Setting](#) date of hearing on intent to acquire property for recreational trail purposes and authorize acquisition of the necessary property interests from various property owners for the 63rd Street Trail Connector project, (3-28-11). **Moved by Hensley to adopt. Motion Carried 7-0.**

25. Communications from Downtown Community Alliance for approval of banner design for the following:

- [11-0442](#) (A) [EMC](#) Insurance Companies to be displayed on Walnut Street. **Moved by Hensley to approve banner design. Motion Carried 7-0.**

- [11-0443](#) (B) [Greater](#) Des Moines Convention and Visitor's Bureau. **Moved by Hensley to approve banner design. Motion Carried 7-0.**

- [11-0444](#) 26. [Bids](#) from Charles Gabus Ford (Gene Gabus, General Manager), Stivers Ford (Don Politte, President), Toyota of Des Moines (Steve Luebke, Vice President/General Manager) and Stew Hanson Dodge (Ken Ganff, President) for various replacement vehicles for city-wide use, \$1,098,017.20. (Nineteen bids mailed, eight received). ([Council Communication No. 11-166](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**

- [11-0445](#) 27. Civil Service Entrance List for Family Development Specialist. **Moved by Hensley to receive and file. Motion Carried 7-0.**
- [11-0446](#) 28. Authorizing Finance Director to draw checks on registers for weeks of March 14 and March 21, 2011; to draw checks for the bills of the Des Moines Municipal Housing Agency for weeks of March 14 and March 21, 2011; and to draw checks for biweekly payroll due March 25, 2011. **Moved by Hensley to adopt. Motion Carried 7-0.**

ORDINANCES - SECOND CONSIDERATION

- [11-0447](#) 29. Amending Chapters 74 and 102 of the Municipal Code regarding use of mobility devices by persons with disabilities. (Council Communication No. 11-162) **Moved by Hensley that this ordinance be considered and given second vote for passage. Motion Carried 7-0.**
- [11-0448](#) (A) Final consideration of ordinance above (waiver requested by Legal Department), 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, #15,000. Motion Carried 7-0.**
- [11-0449](#) 30. Amending Chapters 18, 74 and 102 of the Municipal Code regarding ownership and use of service dogs and service animals. (Council Communication No. 11-163) **Moved by Hensley that this ordinance be considered and given second vote for passage.**
- [11-0450](#) (A) Final consideration of ordinance above (waiver requested by Legal Department), 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, #15,001. Motion Carried 7-0.**

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

COMMUNICATIONS/REPORTS

- [11-0451](#) 31. From Jeff Stratton, 1333 41st Street, to speak regarding sidewalk fines and complaint-based inspection policies. **Moved by Coleman to receive and file comments and refer to the City Manager for review and recommendation. Motion Carried 7-0.**

HEARINGS (OPEN AT 5:01 P.M.) (ITEMS 32 THRU 43)

- [11-0452](#) 32. **On** appeal from Harold Doland, Jr., 1344 E. 37th Street, regarding recommended denial of a Taxicab License. **Moved by Hensley to deny license. Motion Carried 6-1. Absent: Coleman. Mr. Doland did not appear.**
- [11-0453](#) 33. **On** conveyance of south half of vacated alley between 6th Avenue and 7th Street, south of Cherry Street, to Des Moines Regional Transit Authority (DART), \$40,240. ([Council Communication No. 11-147](#)) **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-0454](#) 34. **On** vacation and conveyance of segment of Morton Avenue, east of and including a portion of Idaho Street, to Grand View University, \$12,150. ([Council Communication No. 11-148](#)) **Moved by Moore to adopt. Motion Carried 6-0. Council Member Mahaffey declares a conflict of interest and abstains from voting.**
- [11-0455](#) (A) **First** consideration of ordinance above. **Moved by Moore that this ordinance be considered and given first vote for passage. Motion Carried 6-0. Council Member Mahaffey declares a conflict of interest and abstains from voting.**
- [11-0456](#) (B) **Final** consideration of ordinance above (waiver requested by applicant), requires six votes. **Moved by Moore 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, #15,002. Motion Carried 6-0. Council Member Mahaffey declares a conflict of interest and abstains from voting.**
35. Items regarding property in the vicinity of Crocker Street, 19th Place, ML King Jr. Parkway, Leyner Street and 1910 Cottage Grove (Smokey Row):
- [11-0457](#) (A) **Hearing** on vacation and conveyance of properties to Bennett Property Management, LLC, \$12,200 and to Cameron Sadeghpour, \$50. ([Council Communication No. 11-157](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0458](#) (B) **First** consideration of ordinance above. **Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 7-0.**
- [11-0459](#) (C) **Final** consideration of ordinance above, (waiver requested by the applicant), requires 6 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, #15,003. Motion Carried 7-0.**

- [11-0460](#) (D) [Hearing](#) on rezoning of the property at 1910 Cottage Grove from “NPC” (Neighborhood Pedestrian Commercial), “RH-D” (Residential Historic) and “R-3” (Multi-Family) to “PUD” (Planned Unit Development) and to approve the proposed PUD Conceptual Plan. **Moved by Hensley to adopt and approve the rezoning and Conceptual Plan, subject to final passage of the rezoning ordinance. Motion Carried 7-0.**
- [11-0461](#) (E) [First](#) consideration of ordinance above. **Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 7-0.**
- [11-0462](#) (F) [Final](#) consideration of ordinance above, (waiver requested by Monte and Krista Bennett), requires 6 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, [#15,004](#). Motion Carried 7-0.**
- [11-0463](#) 36. [On](#) request from Kum & Go, LC to rezone 5830 and 5832 SE 14th Street from “C-2” (General Retail and Highway Oriented Commercial) to “PUD” (Planned Unit Development) for development of convenience store. **Moved by Meyer to adopt and approve the rezoning and Conceptual Plan, subject to final passage of the rezoning ordinance. Motion Carried 7-0.**
- [11-0464](#) (A) [First](#) consideration of ordinance above. **Moved by Meyer that this ordinance be considered and given first vote for passage. Motion Carried 7-0.**
- [11-0465](#) (B) [Final](#) consideration of ordinance above (waiver requested by applicant), 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, [#15,005](#). Motion Carried 7-0.**
- [11-0466](#) 37. [On](#) Zoning Text Amendments to Chapter 134-982 “C3-A” (Central Business Support Commercial) and Chapter 134-1017 “C-3” (Central Business) regulations to prohibit gas stations and fuel retail sales businesses. **Moved by Hensley to continue the hearing to April 11, 2011 at 5:00 PM; refer to the City Manager to conduct a comprehensive review and to make a recommendation regarding the appropriate uses in C-3 and C-3A districts. Motion Carried 7-0.**

WITHDRAWN

[11-0467](#)

WITHDRAWN

[11-0468](#)

- (A) ~~[First](#) consideration of ordinance above.~~
- (B) ~~Final consideration of ordinance above (waiver requested by Community Development Director), requires six votes.~~

- [11-0469](#) 38. [On](#) proposed amendment to Carman Estates PUD Conceptual Plan, for the land platted as Carman Estates Plats 1, 2, 3 and 4, (vicinity of 2421-2458 E. Porter Avenue), to allow removal of a 30-foot wide conservation easement. Recommendation to DENY request to remove the easement. ([Council Communication No. 11-167](#)) **Moved by Meyer to adopt and deny the request to remove the conservation easement. Motion Carried 7-0.**
- [11-0470](#) 39. [On](#) 2011 Golf Course Repairs: Resolution approving plans, specifications, form of contract documents, Engineer's estimate and designating lowest responsible bidder as T & A Turf and Irrigation LLC, (Aaron M. Clements, Owner), \$120,845.86. ([Council Communication No. 11-151](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0471](#) (A) [Approving](#) contract and bond, and permission to sublet. **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0472](#) 40. [On](#) Court Avenue and Water Street Sewer Separation: Resolution approving plans, specifications, form of contract documents, Engineer's estimate, and status of funded activities under IDED Contract No. 08-DRI-032, and to receive and file bids designating lowest responsible bidder as H&W Contracting, LLC, (Thomas L. Hurd, President), \$3,977,311.75. ([Council Communication No. 11-168](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0473](#) (A) [Approving](#) contract and bond, and permission to sublet. **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0474](#) 41. [On](#) Fleur Drive Viaduct Over American Discovery Trail Rehabilitation: Resolution approving plans, specifications, form of contract documents, Engineer's estimate and designating lowest responsible bidder as Herberger Construction Co., Inc., (Dean Herberger, President), \$1,123,427.72. ([Council Communication No. 11-150](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0475](#) (A) [Approving](#) contract and bond, and permission to sublet. **Moved by Hensley to adopt. Motion Carried 7-0.**
- [11-0476](#) 42. [On](#) McKinley Avenue Widening at South Union Street: 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), \$1,107,288.20. ([Council Communication No. 11-156](#)) **Moved by Meyer to adopt. Motion Carried 7-0.**
- [11-0477](#) (A) [Approving](#) contract and bond, and permission to sublet. **Moved by Meyer to adopt. Motion Carried 7-0.**

[11-0478](#) 43. [On](#) Mulberry Street Paving – 13th Street to 15th Street: Resolution approving plans, specifications, form of contract documents, Engineer’s estimate and designating lowest responsible bidder as McAninch Corporation, (Douglas D. McAninch, President), \$3,197,100. ([Council Communication No. 11-149](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**

[11-0479](#) (A) [Approving](#) contract and bond, and permission to sublet. **Moved by Hensley to adopt. Motion Carried 7-0.**

*** END HEARINGS AT 5:27 PM ***

APPROVING

[11-0480](#) 44. [28E](#) Agreement with Polk County Emergency Management Commission for funding the Polk County Emergency Management Agency and reappointing Chief of the Fire Department as the City’s representative. ([Council Communication No. 11-143](#)) **Moved by Mahaffey to adopt. Motion Carried 7-0.**

[11-0481](#) 45. [Des](#) Moines Action Loan Fund Loan to Americana, LLC, 1312 Locust Street, Suite 102, \$200,000. ([Council Communication No. 11-169](#)) **Moved by Hensley to approve. Motion Carried 7-0.**

BOARD OF HEALTH

[11-0482](#) MOTION TO CONVENE. **Moved by Griess that the City Council adjourn and convene as a Board of Health. Motion Carried 7-0.**

[11-0483](#) 1. [Approving](#) the Legal Department to proceed with court action seeking authority to abate the public nuisance at 2718 Glover Avenue, garage structure, administrative removal, Titleholders: Melissa A. Lafon and James D. Lafon. **Moved by Moore to adopt. Motion Carried 7-0.**

[11-0484](#) 2. [Approving](#) release of fire escrow account held for the structure at 3203 Mondamin Avenue. Date of loss, 12-18-2010. **Moved by Mahaffey to adopt. Motion Carried 7-0.**

[11-0485](#) 3. [Communication](#) from Pekin Insurance dated February 3, 2011 stating their insured’s, Richard C. and Eva M. Dady, 1123 Riverview Drive, sustained a fire loss on January 6, 2011 and a \$16,200 fire escrow is being held. **Moved by Mahaffey to receive and file and to direct that the City Attorney bring legal action within one hundred eighty days (180 days) of receipt of notice if owners have not demolished or renovated the structure. Motion Carried 7-0.**

[11-0486](#) MOTION TO ADJOURN. **Moved by Hensley to adjourn at 5:38 PM. Motion Carried 7-0.**