

# DES MOINES CITY COUNCIL MEETING

November 9, 2009 4:30 P.M.

## SPECIAL PRESENTATION

Friends of Des Moines Parks

## 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:
2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED:
3. APPROVING CONSENT AGENDA – items 3 through 41:

\* \* \* \* \*

**\*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:

### 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
<del>(D)</del>	<del>OPEN SESAME</del>	<del>313 E LOCUST ST</del>	<del>C Liquor</del>

### 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

5. [City](#) Clerk to issue Coin Operated Machine Licenses.

## PUBLIC IMPROVEMENTS

6. Ordering construction of the following:

~~(A) [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).~~

~~[\(Council Communication No. 09-787\)](#)~~

(B) [Army](#) Post Road Widening – SW 9<sup>th</sup> Street to SE 5<sup>th</sup> Street: Receiving of bids, (11-17-09), and Setting date of hearing, (12-7-09). (Construction Estimate - \$2,072,906.75).

[\(Council Communication No. 09-785\)](#)

7. [Approving](#) Professional Services Agreement with Shuck-Britson, Inc. for Principal Park Facility Assessment, not to exceed \$32,000.

[\(Council Communication No. 09-778\)](#)

8. [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.

[\(Council Communication No. 09-777\)](#)

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.

[\(Council Communication No. 09-775\)](#)

10. [Approving](#) completion and acceptance of the Private Construction Contract for paving improvements, E. 4<sup>th</sup> Street from E. Grand Avenue to Des Moines Street between Eco-Tech Construction, LLC and Nelson Development 15, LLC.
11. Accepting completed construction and approving final payment for the following:
  - (A) [Baker](#) Electric Inc., - E. 29<sup>th</sup> Street and Hubbell Avenue Traffic Signal Upgrade.
  - (B) [OMG](#) Midwest, Inc. d/b/a Des Moines Asphalt & Paving – Fleur Drive/Blue Street Resurfacing – Beardsley Street to SW 9<sup>th</sup> Street.
  - (C) [C.A.C.](#), Inc. – American Discovery Trail Wetlands Mitigation.

### **SPECIAL ASSESSMENTS**

12. Levying assessments for costs of Nuisance Abatement – NAC Emergency Orders for the following:
  - (A) [Schedule](#) No. 2009-18 (Public Works).
  - (B) [Schedule](#) No. 2009-19 (Community Development).

### **LAND/PROPERTY TRANSACTIONS**

13. [Authorizing](#) 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 35<sup>th</sup> Street.
14. [Authorizing](#) and approving conditional assignment of lease for building encroachment on a portion of City-owned property at 1249 McKinley Avenue.
15. [Approving](#) release of easement for crossing of street maintenance equipment on property at 301 SW 14<sup>th</sup> Street.
16. [Approving](#) 80 Tax Abatement Applications for the additional value added by improvements completed during 2009.

[\(Council Communication No. 09-779\)](#)

17. [Approving](#) Tax Abatement Application for 3614 Park Side Drive for the additional value added by improvements completed during 2007.

[\(Council Communication No. 09-767\)](#)

18. [Authorization](#) to proceed with acquisition of necessary right-of-way and easements for the E. 33<sup>rd</sup> Street and Easton Boulevard Intersection Improvements Project.

[\(Council Communication No. 09-783\)](#)

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

19. [On](#) conveyance of City-owned property adjoining 1404 Emma Avenue to Nicholas P. Tursi, \$100, (11-23-09).
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).

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

21. [Approving](#) payment of \$1,964.70 to Peddicord, Wharton, Spencer, Hook, Barron & Wegman, L.L.P. for representation of Police Officer Mersed Dautovic.
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.
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.
24. Approving payment for workers' compensations claims to the following:
  - (A) [Justin](#) Maschke, \$22,972.22.
  - (B) [Brian](#) McKenzie, \$23,821.36.
  - (C) [Michelle](#) Mills and her attorney, Tom Werner, \$168,054.37.
  - (D) [Kevin](#) Strawn, \$9,741.26.
25. [Assignment](#) and Assumption of Claims Agreement with Elder Corporation for damage to Cownie Soccer Fields.

## 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](#))

27. [Publication](#) 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](#))

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](#))

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](#))

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 19<sup>th</sup> Street.

([Council Communication No. 09-799](#))

31. [Amendment](#) to the Schedule of Administrative Penalties to provide the civil penalty amounts for violation of the Automated Traffic Enforcement Ordinance.

([Council Communication No. 09-800](#))

32. Applications by Hubbell Terminal Corporation to the Iowa Department of Economic Development for the following:

([Council Communication No. 09-798](#))

(A) [Brownfield](#) Redevelopment Program.

(B) [Brownfield](#) Redevelopment Tax Credits.

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.

[\(Council Communication No. 09-797\)](#)

34. [Grant](#) 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.

[\(Council Communication No. 09-774\)](#)

35. [Contract](#) 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.

[\(Council Communication No. 09-786\)](#)

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).

37. [Initiating](#) proposal to name a portion of US Highway 69 extending north from E. County Line Road to where it converges with SE 14<sup>th</sup> Street as "Southridge Boulevard".

[\(Council Communication No. 09-773\)](#)

38. [Use](#) of various City facilities as poll sites for the City Run-Off Election to be held on December 1, 2009.

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.

[\(Council Communication No. 09-790\)](#)

- (B) [ICOR](#) Technology (Hany Guirguis, President) for one bomb disposal robot for use by the Bomb Squad, \$67,384.35.

[\(Council Communication No. 09-788\)](#)

- (C) [Smiths](#) 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.

[\(Council Communication No. 09-789\)](#)

- 40. [Civil](#) Service Promotional List for Senior Housing Case Manager.
- 41. [Authorizing](#) Finance Director to draw checks on registers for the weeks of November 9 and November 16, 2009; to draw checks for bills of the Des Moines Municipal Housing Agency for the weeks of November 9 and November 16, 2009; and to draw checks for bi-weekly payroll due November 20, 2009.

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

**ORDINANCES - FIRST CONSIDERATION**

- ~~42. [Amending](#) Chapter 74 of the Municipal Code regarding rentals in the Western Gateway Park.~~

**COMMUNICATIONS/REPORTS**

- 43. [From](#) Una Ray, 1315 E. 16<sup>th</sup> Street, to speak regarding Handy Man service for the community.
- 44. [From](#) Terry Wells, 1157 14<sup>th</sup> Place, to speak regarding matters of the Central Iowa Services Shelter (CISS) and the homeless in the Des Moines area.

**\*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 45 THRU 54)**

- 45. [On](#) Application for Certificate of Public Convenience and Necessity to operate limousine services for Michael G. Marks to do business as Marks Limousine Service.

[\(Council Communication No. 09-780\)](#)

- 46. [On](#) vacation and conveyance of the north/south alley adjoining 101 SW 5<sup>th</sup> Street to Rumely Lofts Limited Partnership, \$13,959. (continued from 10-26-09)

[\(Council Communication No. 09-782\)](#)

- (A) [First](#) consideration of ordinance above.

- (B) [Final](#) consideration of ordinance above (requested by Sherman Associates), requires six votes.
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**)
- (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**)
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.
- (A) [Amend](#) the 2020 Community Character Plan future land use designation from Low-Density Residential to Commercial: Pedestrian-Oriented Neighborhood Node.
- (B) [Letter](#) and petitions in support.
- (C) [Petition](#) in opposition.
- (D) [First](#) consideration of ordinance above.
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.

[\(Council Communication No. 09-776\)](#)

- (A) [First](#) consideration of ordinance above.
- (B) [Final](#) consideration of ordinance above (waiver requested by Community Development Director), requires six votes.
50. [On](#) proposed First (2010) Year Action Plan of the 2010-2014 U.S. Department of Housing and Urban Development (HUD) Consolidated Plan.

[\(Council Communication No. 09-771\)](#)



(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.

(B) [Communication](#) from Neighborhood Revitalization Board.

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 East Army Post Trunk Sanitary Sewer Project.

[\(Council Communication No. 09-781\)](#)

52. [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.

[\(Council Communication No. 09-792\)](#)

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

53. [On](#) 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.

[\(Council Communication No. 09-796\)](#)

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

54. [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.

[\(Council Communication No. 09-791\)](#)

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

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

## **APPROVING**

55. [Establishing](#) fair market value and authorizing voluntary acquisition of property at 4315 SE 14<sup>th</sup> Street from Phyllis and Harold Rogers for the SE 14<sup>th</sup> Street and Army Post Road Revitalization Project, \$210,000.

[\(Council Communication No. 09-784\)](#)

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:

- (A) ALTERNATE 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.

(Council Communication No. 09-795)

- (B) ALTERNATE 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.

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



All-America City  
1949 1976 1981 2003