# DES MOINES CITY COUNCIL MEETING

# August 29, 2011

## I. CLOSED SESSION – 3:30 PM

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

# **SPECIAL PRESENTATIONS – 4:15 PM**

National American Miss Iowa Pre-Teen Cover Girl – Jordan George

### **INVOCATION:** Council Member Moore

- 1. ROLL CALL:
- I. Hy-Vee Triathlon Presentation.
- 2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED:
- 3. APPROVING CONSENT AGENDA \* items 3 through 48:
  - \*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)	5 DE MAYO MEXICAN	5118 SE 14TH ST	C Liquor
(B)	ALL PLAY	615 3RD ST	C Liquor
(C)	DES MOINES FOOD & LIQUOR	5000 SW 9TH ST	C Beer
<del>(D)</del>	DES MOINES VALERO #202	<u>821 E EUCLID AVE</u>	<del>C Beer</del>
(E)	EL CENTROAMERICANO	2811 SE 14TH ST	C Liquor
(F)	GORDITAS SAN PANCHO	2250 HUBBELL AVE	C Liquor
<del>(G)</del>	<del>-WASABI CHI ASIAN DINER</del>	_ <del>5418_DOUGLAS_AVE</del> _	-C Liquor

## RENEWAL APPLICATIONS

(H)	BEECHWOOD LOUNGE	416 E WALNUT ST	C Liquor
(I)	CASEYS #2314	3527 INDIANOLA	C Beer
(J)	DRAGON HOUSE EAST	2470 E EUCLID AVE	C Liquor
(K)	LA MIE BAKERY	841 42ND ST	C Beer/Wine
(L)	LA PREFERIDA	2300 HICKMAN RD	C Beer
(M)	MARGARITAS	1440 MAURY ST	C Liquor
(N)	MERLE HAY LANES	3800 MERLE HAY RD	C Liquor
(O)	OLD CHICAGO	3800 MERLE HAY RD	C Liquor
(P)	PAL JOEYS	6224 GRAND AVE	C Liquor
(Q)	PARADIES SHOPS	5800 FLEUR DR	B Native Wine
(R)	RONS DAWG HOUSE	2117 E UNIVERSITY	C Liquor
(S)	SUNRISE TAP	4155 EASTON BLVD	C Liquor
(T)	TOADS TAVERN	3002 STATE AVE	C Liquor
(U)	TOBACCO OUTLET PLUS #510	3409 SW 9TH ST	C Beer
(V)	UNDERGROUND	500 E LOCUST ST	C Liquor
(W)	WAVELAND COFFEE SHOP	4704 UNIVERSITY	C Liquor

## SPECIAL EVENTS APPLICATIONS

- (X) BLAZING SADDLE 406 E 5TH ST Five (5) Day License Class B Beer License for Hy-Vee Triathlon on September 4, 2011. Pending approval of Building, Electrical, Fire and Zoning Departments.
- (Y) CITY OF DES MOINES 101 E GRAND AVE Five (5) Day License Class B Beer License for Hy-Vee Triathlon events on September 2 and 4, 2011. Pending approval of Building, Electrical, Fire and Zoning Departments.
- (Z) TAI VILLAGE 4200 MLK JR PKWY Five (5) Day License Class B Beer License for annual Tai Festival on September 3 4, 2011. Pending approval of Building and Fire Departments.

5. <u>Amending</u> Des Moines City Council Policy for beer, wine or liquor permit/license applications.

## (Council Communication No. 11-548)

- 6. City Clerk to issue Cigarette Licenses.
- 7. Number not used.

#### PUBLIC IMPROVEMENTS

8. <u>Approving</u> and authorizing execution of an Intergovernmental 28E Agreement with the City of Windsor Heights for shared traffic signal maintenance responsibilities.

## (Council Communication No. 11-540)

9. <u>Approving</u> Supplemental Agreement No. 1 to the 2011 Sewer Repair Contract 1 professional services agreement with Foth Infrastructure and Environment, LLC, for design and construction phase services, not to exceed \$56,490.

## (Council Communication No. 11-538)

10. <u>Approving</u> Change Order No. 2 with Corell Contractor, Inc. and subsidiary for additional work on the Southeast Connector Paving – SW 2<sup>nd</sup> Street to SE 6<sup>th</sup> Street for a total not to exceed \$26,270.37.

## (Council Communication No. 11-542)

- 11. <u>Communication</u> from contractors requesting permission to sublet certain items on public improvement projects.
- 12. Accepting completed construction and approving final payment of the following:
  - (A) <u>Demolition</u> at Southern Meadows Apartments, 2800 SE 8<sup>th</sup> Street, Brothers Environmental, Inc.
  - (B) Livingston Avenue Storm Sewer Televising, Priority Excavating LLC.

#### SPECIAL ASSESSMENTS

- 13. Approving deletion of rental inspection assessment at 2128 University Avenue.
- 14. Number not used.

#### LAND/PROPERTY TRANSACTIONS

15. <u>Authorization</u> to proceed with acquisition of necessary right-of-way and easements for the Easter Lake Drive Bridge Rehabilitation Project.

(Council Communication No. 11-546)

16. <u>Establishing</u> fair market value of property in the vicinity of 1610 Scott Avenue for SE Connector Project – SE 14<sup>th</sup> to SE 30<sup>th</sup> Street and for the Municipal Service Center – Phase 1 Project.

(Council Communication No. 11-545)

17. Approving final Subdivision Plat entitled Jack's Place in vicinity of 3700 block of John Lynde Road.

(Council Communication No. 11-561)

18. <u>Approving</u> final Subdivision Plat entitled Brownstones On Grand, Plat 3 located at 201 Grand Avenue.

(Council Communication No. 11-537)

### BOARDS/COMMISSIONS/NEIGHBORHOODS

19. <u>Communication</u> from Donald Puck, advising of his resignation from the Building and Fire Code Board of Appeals, Seat 14, effective immediately.

#### SETTING DATE OF HEARINGS

- 20. On conveyance of 917 SE Allen Street to Robert L. Conn, \$1,000, (9-12-11).
- 21. On Council-initiated request to vacate Broad Street between Indianola Avenue and SE 8<sup>th</sup> Street and rezone the properties surrounding Southern Meadows Apartments from Ltd. "R-3" (Multiple Family Residential) and "R1-60" (Low-Density Single-Family Residential) to PUD (Planned Unit Development), (10-10-11).

(Council Communication No. 11-555)

22. On request from Capstone Ventures, LLC to rezone 315 SW 14<sup>th</sup> Street from "C-3B" (Central Business District Mixed Use) to "PUD" (Planned Unit Development), (9-12-11). Plan and Zoning Commission recommends DENIAL of rezoning.

- 23. On request from Neighborhood Development Corporation to rezone 1938 SE 6<sup>th</sup> Street from Ltd. "C-1A" (Neighborhood Commercial Reuse) to "NPC" (Neighborhood Pedestrian Commercial), subject to conditions, (9-12-11).
- 24. On proposed Zoning ordinance text amendment to Chapter 134 with regard to businesses selling liquor, wine and beer, (9-12-11).

### LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS

- 25. <u>Approving</u> payment of \$515.71 to Peddicord, Wharton, Spencer and Hook, LLP for representation of Officer Mersed Dautovic.
- 26. <u>Approving</u> payment of \$13,872.15 to Husch Blackwell LLP for joint representation with the Des Moines Metropolitan Wastewater Reclamation Authority (WRA) on levee system issues. (\$5,281.88 paid by the City and \$8,590.27 by the WRA).
- 27. Approving payment of \$29,388.10 to Ahlers & Cooney, P.C. with respect to General Obligation Bonds.
- 28. Approving payment of workers' compensation claims to the following:
  - (A) Robert Van Cleave, \$17,797.98.
  - (B) Elizabeth Grismer-Shediwy, \$26,276.44.
  - (C) Sharon Handeland, \$38,165.40.
  - (D) Audie Frazier, \$22,142.13.
- 29. <u>Approving</u> payment of \$16,762.55 to MidAmerican Energy for property damage to their electric transformer as the result of damage caused by WRA snow plows.

## CITY MANAGER COMMUNICATIONS

30. <u>Submitting</u> travel and training requests for Cody Christensen, T.M. Franklin Cownie (2), Sean Devlin, Kevin Risk and Shekinah Young.

(Council Communication No. 11-562)

#### APPROVING

31. <u>Submittal</u> of an application for a Community Challenge Planning Grant sponsored by the U.S. Department of Housing and Urban Development (HUD).

(Council Communication No. 11-576)

32. <u>Revised</u> Attachment A of the Neighborhood Stabilization Program Contract with the Iowa Department of Economic Development.

(Council Communication No. 11-568)

33. <u>Preliminary</u> approval of Economic Development Loan and NCR Program Façade Grant to R.E. Properties, LLC – renovation of 424 E. Locust Street.

(Council Communication No. 11-569)

- (A) Sponsorship of Tax Credit Application for renovation of 424 E. Locust Street
- 34. <u>Preliminary</u> terms of agreement for Economic Development Forgivable Loan to Life Care Services, LLC.

(Council Communication No. 11-571)

- 35. Number Not Used.
- 36. <u>Changes</u> to exterior color scheme at Embassy Suites Hotel.

(Council Communication No. 11-554)

37. <u>Submittal</u> of grant application to Prairie Meadows Racetrack and Casino for funding of the Police Mounted Patrol, \$10,500.

(Council Communication No. 11-578)

38. Renewal and first amendment to the Evelyn K. Davis Park Fund Grant Agreement with the Community Foundation of Greater Des Moines.

(Council Communication No. 11-560)

39. <u>Application</u> for U.S. Department of Homeland Security 2011 Assistance To Firefighters Grant.

(Council Communication No. 11-563)

40. <u>Second</u> amendment to State Energy Program Grant Sub-recipient Contract changing the scope of work in the contract for HVAC System improvements in Airport Terminal.

(Council Communication No. 11-572)

41. <u>Grant</u> agreement with Iowa Department of Transportation for capital improvements at the Des Moines International Airport, \$562,349.

## (Council Communication No. 11-566)

- 42. <u>Communication</u> from Downtown Community Alliance, on behalf of Meredith Corporation, to approve banner design to be displayed in downtown Des Moines on Locust Street in fall 2011.
- 43. Receipt of Des Moines Water Works Audit Report and Management Letter for calendar year ending December 31, 2010.
- 44. <u>Agreement</u> with Polk County for ambulance and emergency medical services at the Polk County Jail.

## (Council Communication No. 11-559)

- 45. Bids from the following:
  - (A) <u>Hewlett</u> Packard Co. (Mark Hurd, President) for replacement employee desktop personal computers per Western States Contracting Alliance (WSCA) price agreement for use by the Police Department, \$34,013.55.

## (Council Communication No. 11-577)

- (B) <u>Communication</u> Technologies (Dana Heldenbrand, President) for annual contract with two (2) additional one-year renewal options to furnish subsurface utility locating services for use by the Engineering Department, estimated annual cost \$64,120.
- (C) <u>UltraMax</u> Ammunition (Roger Braunstein, Owner) for ammunition to be used by the Police Department, \$191,290.70. (Thirteen bids mailed, five received).
- 46. <u>Civil</u> Service Entrance Lists for Neighborhood Inspections Supervisor and Assistant Operator.
- 47. <u>Authorizing</u> Finance Director to draw checks on registers for weeks of August 29 and September 5, 2011; to draw checks for the bills of the Des Moines Municipal Housing Agency for weeks of August 29 and September 5, 2011; and to draw checks for biweekly payroll due September 9, 2011.

### **ORDINANCES - SECOND CONSIDERATION**

48. <u>Amending</u> Chapter 114 of the Municipal Code regarding adding a Commercial Loading Zone –south side of Locust Street, east of 15<sup>th</sup> Street.

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

### **ORDINANCES - FIRST CONSIDERATION**

49. <u>Amending</u> Chapter 114 of the Municipal Code regarding Saturday rates and temporary adjustment of rates in the Municipally-owned parking garages.

(Council Communication No. 11-543)

- 50. <u>Amending</u> Chapter 114 of the Municipal Code, submitting traffic regulation changes as follows:
  - (A) Bus loading and unloading north side of Park Avenue, east of SW 28<sup>th</sup> Street.
  - (B) Prohibit parking on Sundays SW 9<sup>th</sup> Street between Wall Avenue and Porter Avenue.
  - (C) Parking restriction due to intersection reconstruction both sides of Urbandale Avenue from east of Merle Hay Road to the west City limits.
  - (D) Truck Route designation Ingersoll Avenue from Martin Luther King Jr. Parkway to 42<sup>nd</sup> Street.

(Council Communication No. 11-541)

51. Repealing Chapter 60 of the Municipal Code and enacting a new Chapter 60, regarding neighborhood inspection rental code, real estate installment contract sales inspection and residential public nuisance code.

(Council Communication No. 11-549)

- 52. <u>Amending Chapter 90 of the Municipal Code establishing a Housing Services Board as a successor commission to the Public Housing Board.</u>
  - (A) <u>Amending</u> Chapter 82 of the Municipal Code regarding responsibilities and duties of Neighborhood Revitalization Board.
  - (B) Final consideration of ordinance amending Chapter 90 above (waiver requested by Housing Services Director), requires 6 votes.
  - (C) Final consideration of ordinance amending Chapter 82 above (waiver requested by Housing Services Director), requires 6 votes.

(Council Communication No. 11-564)

### **COUNCIL REQUESTS**

- 53. From Council Member Skip Moore, to speak regarding the following:
  - (A) <u>Taxpayer</u> Quality Assurance.
  - (B) Changing local contractor advantage from 1% to 5%.

### **COMMUNICATIONS/REPORTS**

- 54. From the Des Moines Human Rights Commission, requesting the City Council to amend the Municipal Code to conform to the Iowa Code Chapter 216, by adding Gender Identity as a protected class.
- 55. From Al Semple, 3201 Amherst, to speak regarding access to Century Link Fiber optic cable.
- 56. From Linda Smith, 2546 E. Grand Avenue, to speak regarding actions of Polk County Weed Commissioner.

\*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 57 THRU 71)

- 57. On appeal from Tri Vu, 1342 E. 14<sup>th</sup> Street, regarding recommended denial of a Taxicab License.
- 58. On appeal from Marnie Strate, 940 35<sup>th</sup> Street, regarding Administrative Hearing Officer's decision on impounded vehicle.
- 59. Items regarding the Des Moines Airport Authority:
  - (A) Hearing on proposal to enter into Real Estate Lease and Asset Transfer Agreement.
  - (B) First consideration of ordinance authorizing the lease and conveyance of the Des Moines aviation facilities to the Des Moines Airport Authority.

## (Council Communication No. 11-575)

- (1) Final consideration of ordinance above, (waiver requested by the Airport Director), requires 6 votes.
- (C) Agreement with the Des Moines Airport Authority for provision of City services.
- (D) Approving Assignment and Assumption Agreement.
- (E) Approving Des Moines Aviation Department reduction in force.

## (Council Communication No. 11-573)

60. On second amendment to Terminal Building Lease Agreement with United States General Services Administration at the Des Moines International Airport, through June 30, 2019.

## (Council Communication No. 11-547)

61. On proposed amendments to the City Precinct and Ward Boundaries and approving agreements with Polk County and the City of Norwalk, for combined precincts.

### (Council Communication No. 11-580)

- (A) First consideration of ordinance above.
- (B) <u>Final</u> consideration of ordinance above (waiver requested by City Manager), requires 6 votes.

- 62. On vacation and conveyance of a portion of Waveland Golf Course property to Russell D. Parks, in exchange for a comparable parcel of land adjoining Cummins Woods.
  - (A) First consideration of ordinance above.
  - (B) <u>Final</u> consideration of ordinance above, (waiver requested by applicant) requires 6 votes.

### (Council Communication No. 11-544)

- 63. On conveyance of overhead and underground electric line easements on city-owned properties to MidAmerican Energy Company, in conjunction with the Fire Department Training Logistics Facility and Grandview Golf Course Clubhouse, \$1.
- 64. On vacation and conveyance of 20 ft. segment of remaining north/south alley lying within property at 1401 E. 12<sup>th</sup> Street to Des Moines Independent Community School District.
  - (A) First consideration of ordinance above.
  - (B) <u>Final</u> consideration of ordinance above (waiver requested by the applicant), requires 6 votes.
- 65. Items regarding property at 201 SE 29<sup>th</sup> Court, Howard Tully, (Owner):
  - (A) <u>To</u> amend the Des Moines 2020 Community Character Land Use Plan future land use designation from General Industrial to Low-Density Residential.
  - (B) <u>Hearing</u> on rezoning of the property from "M-1" (Light Industrial) to "R1-60" (One Family Low-Density Residential) to bring the existing single-family dwelling into conformance, subject to conditions.
  - (C) First consideration of ordinance above.
  - (D) <u>Final</u> consideration of ordinance above, (wavier requested by the applicant), requires 6 votes.

- 66. Items regarding property at 2340 Herold Avenue, DMM Investments, LLC (Edward Mauro, Officer):
  - (A) To amend the Des Moines 2020 Community Character Land Use Plan future land use designation from Planned Business Park to Low-Density Residential
  - (B) <u>Hearing</u> on rezoning of the property from "M-3" (Limited Industrial) to Limited "R1-60" (One-Family Low-Density Residential) to allow expansion of Herold Avenue for single-family lot development, subject to conditions
  - (C) First consideration of ordinance above.
  - (D) <u>Final</u> consideration of ordinance above, (wavier requested by the applicant), requires 6 votes.
- 67. On Proposed amendments to Second (2011) Year Action Plan of 2010-2014 U.S. Department of Housing and Urban Development (HUD) Consolidated Plan.

## (Council Communication No. 11-550)

68. On Sargent Park Natural Playscape: Resolution approving plans, specifications, form of contract documents, Engineer's estimate and designating lowest responsible bidder as The Hansen Company, Inc., (Craig W. Hansen, President), \$295,599.15.

### (Council Communication No. 11-556)

- (A) Approving contract and bond, and permission to sublet.
- 69. On 2011 Sewer Repair Contract 3: Resolution approving plans, specifications, form of contract documents, Engineer's estimate and designating lowest responsible bidder as The Underground Company, Ltd., (Duane Burkhardt, President), \$188,482.

### (Council Communication No. 11-553)

- (A) Approving contract and bond, and permission to sublet.
- 70. On E. Army Post Road and Indianola Avenue Culvert Extension: Resolution approving plans, specifications, form of contract documents, Engineer's estimate and designating lowest responsible bidder as Gus Construction Co., Inc., (Darrell D. Ocheltree, Owner), \$628,820.94.

# (Council Communication No. 11-558)

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

71. On Gray's Lake Shoreline Restoration: Resolution approving plans, specifications, form of contract documents, Engineer's estimate and designating lowest responsible bidder as Sunram Construction, Inc., (Lee W. Sunram, President), \$237,125.96.

(Council Communication No. 11-557)

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

***END HEARINGS AT PM **	T PM ***
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### CITY MANAGER RECOMMENDATIONS

- 72. Regarding the Municipal Arborist position and reporting.
  - (A) First consideration of an ordinance repealing Section 122-2 of the Municipal Code.

(Council Communication No. 11-583)

#### **APPROVING**

- 73. Items regarding the Robert D. Ray Asian Garden:
  - (A) Approving completion and acceptance of private construction contract between Regency Commercial Services, LLC and Chinese Cultural Center of America for the following:
    - (1) Building improvements to substructure.
    - (2) Building improvements to pavilion.
    - (3) Site work improvements.
  - (B) <u>Approving</u> second amendment to 28E Agreement with Chinese Cultural Center of America.
  - (C) <u>Approving</u> agreement with Des Moines River Front Development Authority for maintenance and repairs.

(Council Communication No. 11-581)

74. <u>Preliminary</u> design for the Grand Avenue over Walnut Creek Bridge Replacement Project with a sidewalk only on the south side of the bridge, two left turn lanes, and an enhanced pedestrian crossing east of the bridge, and authorization to proceed with final design.

## (Council Communication No. 11-539)

75. <u>Recommendation</u> regarding creation of an urban renewal area and tax increment district for the Ingersoll Avenue Commercial Area.

### (Council Communication No. 11-567)

76. <u>Authorizing</u> submittal of Fiscal Year (FY) 2012 State of Iowa Certified Local Government (CLG) Grant Application for an intensive level historical/architectural survey and potential nomination to the National Register of Historic Places to create a new National Historic District in the River Bend Neighborhood.

# (Council Communication No. 11-584)

77. <u>License</u> Agreement to allow developer's access to the Des Moines Building.

## (Council Communication No. 11-585)

78. Approving revised assessment policy for new sidewalk construction.

## (Council Communication No. 11-552)

- (A) <u>Authorization</u> to proceed with a high priority sidewalk project on E. Park Avenue from SE 14<sup>th</sup> Street to SE 18<sup>th</sup> Court.
- (B) <u>Authorization</u> to proceed with an assessed sidewalk project on E. Sheridan Avenue, E. 27<sup>th</sup> Street and Boyd Street.

# **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. <u>Supporting</u> the intent for Des Moines Area Community College (DMACC) to locate at Southridge Mall, and for City Council to work with mall ownership and various entities to pursue a repurposing of Southridge Mall. Sponsor: Council Member Meyer.

(Council Communication No. 11-582)

2. <u>Approving</u> preliminary terms for sale of property in the Southeast Agribusiness Urban Renewal Area to Helena Industries, Inc. Sponsor: Council Member Meyer.

### (Council Communication No. 11-570)

- 3. Approving sponsorship of Grayfield Tax Credit applications for renovation of the following: Sponsor: Council Member Hensley.
  - (A) <u>Des</u> Moines Building at 405 6<sup>th</sup> Avenue by Nelson Development and Foutch Brothers, LLC.
  - (B) Younkers Building at 713 Walnut Street by The Alexander Company.
  - (C) Fleming Building at 604 Walnut Street by N.D. 22 Fleming LLC.
- 4. Request from Council Member Coleman regarding the following:
  - (A) <u>Discuss</u> audit requirements and definition regarding compliance with City regulations.
  - (B) <u>Update</u> from Council Personnel Committee regarding schedule for 2011 employee reviews for City Manager, City Clerk, City Human Rights Director and new City Attorney.

### **BOARD OF HEALTH**

#### MOTION TO CONVENE.

- 1. Approving the Legal Department to proceed with court action seeking authority to abate the public nuisance at the following locations: Memo
  - (A) <u>1020</u> Knob Hill Drive, main structure, Titleholder: Chase R. Gochnauer, Mortgage Holder: The Bank of New York Mellon.
  - (B) <u>2315</u> York Street, main structure and garage structure, Titleholders: Chad E. Vandermark and Rochelle M. Vandermark, Mortgage Holder: BAC Home Loans Servicing, LP f/k/a Countrywide Homes.

### MOTION TO ADJOURN.

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