

DES MOINES CITY COUNCIL MEETING

May 4, 2009 4:30 PM

The City Hall elevator is not available due to repairs from April 21 through approximately June 8, 2009. Access to the floors other than the first floor is by the stairwells. An accessible room on the ground floor is available with a television to watch the public meetings held in the Council Chambers at the Naucalpan Room across from the Information Desk. Public comments may be addressed to the Council, or other board or commission, during the public meeting from the Naucalpan Room.

The City of Des Moines is pleased to provide accommodations to individuals or groups with disabilities and encourages participation in City government. During the period that the City Hall elevator will be out of service, to better serve you, when possible please notify us at least three business days in advance at 515-283-4209, should special accommodations be required. City Council Meetings are broadcast with closed captioning. Assistive Listening Devices are available for meetings in the Council Chambers.

INVOCATION: Rev. Dr. James Wallace
Central Presbyterian Church
3829 Grand Avenue

1. ROLL CALL:
2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED:

* * * * *

***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.

3. APPROVING CONSENT AGENDA – items 3 through 48:

LICENSES AND PERMITS

4. Approving Alcoholic Beverage License Applications for the following:

NEW APPLICATIONS

(A)	BEE'Z BAR INC	1500 SE 1ST ST	C Liquor
(B)	BEST TRIP INC	1516 SE 1ST ST	E Liquor
(C)	DES MOINES SOCIAL CLUB	1408 LOCUST ST	C Liquor
(D)	ELWELL FAMILY FOOD	3000 E GRAND AVE	C Beer/Wine
(E)	LA HACIENDA III	3121 INGERSOLL	C Liquor
(F)	OASIS GROCERY & LIQUOR	2917 PAYNE RD	E Liquor
(G)	PARTY COVE	204 3RD ST	C Liquor
(H)	RIVER POINT PUB	1306 SE 1ST ST	C Liquor
(I)	SA PRESENTS LLC	75 E LOCUST	C Liquor
(J)	SINNERS & SAINTS	216 COURT AVE	C Liquor

RENEWAL APPLICATIONS

(K)	14TH STREET TAVERN	3418 E 14TH ST	C Liquor
(L)	BIG KMART #4160	2535 HUBBELL AVE	C Beer
(M)	COURT SIDE ENTERTAINMENT	1014 E 14TH ST	C Liquor
(N)	DEPOT	3000 E GRAND AVE	B Beer
(O)	GARDEN	112 SE 4TH ST	C Liquor
(P)	GENES PLACE	2117 E UNIVERSITY	C Liquor
(Q)	GIT N GO STORE #3	100 WATROUS AVE	C Beer
(R)	GIT N GO STORE #31	2601 SW 9TH ST	C Beer
(S)	GORDITAS SAN PANCHO	2250 HUBBELL AVE	B Beer
(T)	NOAHS ARK RESTAURANT	2400 INGERSOLL	C Liquor
(U)	OLYMPIC FLAME	514 E GRAND AVE	C Beer/Wine
(V)	QUALITY INN & SUITES	929 3RD ST	B Liquor
(W)	SAVERY HOTEL AND SPA	401 LOCUST ST	B Liquor
(X)	SAVERY HOTEL AND SPA	401 LOCUST ST	B Wine
(Y)	SUPER STOP	727 SE 14TH ST	C Beer

OUTDOOR SERVICE APPLICATIONS

- (Z) 14TH STREET TAVERN 3418 E 14TH ST C Liquor
Temporary outdoor service for an event on May 9-11, 2009. Pending approval of Zoning Department.

SPECIAL EVENT APPLICATIONS

- (AA) OAZA BAR 3000 E GRAND AVE Five (5) Day License
Class C Beer Permit for an event on May 9, 2009 at the Knapp Center. Pending approval of Vice Department.
- (BB) TASTE TO GO 519 PARK ST Five (5) Day License
Class C Liquor License effective May 22, 2009. Pending approval of Zoning Department.

5. City Clerk to issue Cigarette Licenses.

PUBLIC IMPROVEMENTS

6. Ordering construction of the following:
- (A) Cownie Soccer Fields Improvements – Phase 3: Receiving of bids, (5-19-09), and Setting date of hearing, (6-8-09). (Construction Estimate - \$758,500).

(Council Communication No. 09-287)

- (B) Waveland Trail Phase 1 from the Walnut Creek Trail to 56th Street: Receiving of bids, (5-19-09), and Setting date of hearing, (6-8-09). (Construction Estimate - \$330,000).

(Council Communication No. 09-284)

- (C) 2nd Avenue Resurfacing-Grand Avenue to University Avenue: Receiving of bids, (5-19-09), and Setting date of hearing, (6-8-09). (Construction Estimate - \$650,000).

(Council Communication No. 09-286)

- (D) 2009 City-Wide PCC Pavement Restoration Program: Receiving of bids, (5-19-09), and Setting date of hearing, (6-8-09). (Construction Estimate - \$200,080).

(Council Communication No. 09-289)

- (E) 2009 Sidewalk Replacement Program: Receiving of bids, (5-19-09), and Setting date of hearing, (6-8-09). (Construction Estimate - \$349,905).

(Council Communication No. 09-288)

7. Approving execution of Iowa Department of Transportation Agreement for E. Indianola Avenue Widening - SE 14th Street to SE 16th Court.

(Council Communication No. 09-275)

8. Approving Professional Services Agreement with Foth Infrastructure and Environment, LLC for evaluation, design, and construction phase services for the Fleur Drive Viaduct over American Discovery Trail Rehabilitation, not to exceed \$76,736.

(Council Communication No. 09-293)

9. Approving Professional Services Agreement with Snyder & Associates, Inc. for design and construction phase services for the 2009 Sewer Repair Contract 1, not to exceed \$164,518.

(Council Communication No. 09-273)

- (A) Authorization to proceed with acquisition of necessary right-of-way and easements for 2009 Sewer Repair Contract 1.

10. Approving request for changes in contract completion provisions on High Street Realignment – 10th Street to 14th Street – Phase 2.

(Council Communication No. 09-272)

11. Approving Private Construction Contract for Corell Contractor, Inc. and Wellmark, Inc. for Storm Sewer Improvements on Grand Avenue from 11th to 14th Streets.
12. Communication from Wolin & Associates, Inc. requesting permission to sublet certain items on Police Station Generator Exhaust Stack.
13. Accepting completed construction and approving final payment for Air-Con-Chesterfield Greenhouses Evaporative Cooling System.

SPECIAL ASSESSMENTS

14. Accepting work and ordering preparation of Plat and Schedule of Assessments for Lincoln Avenue Sanitary Sewer – Victoria Drive to 33rd Street.
 - (A) Adopting and levying final Schedule of Assessments, and providing for payment thereof Lincoln Avenue Sanitary Sewer – Victoria Drive to 33rd Street.
15. Approving deletion of NAC-Emergency Assessment at various locations.

LAND/PROPERTY TRANSACTIONS

16. Acceptance of real estate documents from MidAmerican Energy Company for the Principal Riverwalk Project, \$200.

(Council Communication No. 09-279)

17. Establishing fair market value of 1015 Allen Street for the Southeast Connector Project – SE 6th to SE 14th Street Phase.

(Council Communication No. 09-276)

18. Approving dedicating right-of-way on SW 11th Street for the Riverpoint West Street Improvements Project.

(Council Communication No. 09-278)

19. Approving Tax Abatement Applications for additional value added by improvements for the following:

(A) 1001 Cherry Street during 2008.

(B) 2521 Kingman Boulevard for improvements completed in 2003.

(Council Communication No. 09-263)

20. Authorization to proceed with acquisition of the necessary right-of-way and easements for the McKinley Avenue Drainage Improvements Project – SW 26th Street to SW 31st Street.

(Council Communication No. 09-277)

SETTING DATE OF HEARINGS

21. On vacation and conveyance of segments of undeveloped SE 24th Ct. and C B & Q Street rights-of-way to the Des Moines Metropolitan Wastewater Reclamation Authority, (5-18-09).

22. On vacation and conveyance of portions of excess street and alley right-of-way located between 18th Street and 19th Street from Atkins Street to Day Street to Ryan Galloway, \$5,875, (5-18-09).

23. On request from Easter Lake Estates, Inc. to rezone 1670 E. County Line Rd., excluding the southern 140 feet, from “R1-60” (One-Family Low-Density Residential) to Ltd. “C-2” (General Retail and Highway Oriented Commercial), subject to conditions, (5-18-09).

24. On Supplement No. D-2 to the Governmental Lease-Purchase Master Agreement with De Lage Landen Public Finance LLC, \$1,200,000 to acquire up to seven street sweepers, (5-18-09).

(Council Communication No. 09-262)

24I On Supplement No. D-1 to the Governmental Lease-Purchase Master Agreement with De Lage Landen Public Finance LLC, not to exceed \$800,000 to acquire equipment, (5-18-09).

(Council Communication No. 09-265)

25. On Application for Certificate of Public Convenience and Necessity to operate taxicab services from Oh-Ho Venture Strategies, LLC, seeking to do business as Freedom Taxi, (5-18-09).

25I On application from Tommy Mauro, owner of the Pelican Bar, 208 3rd Street, for vacation of a portion of the adjoining sidewalk for a sidewalk café, (5-18-09).

LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS

26. Approving payment of \$5,857.01 to Hall & Associates for services related to the Combined Sewer System and Combined Sewer Overflows related to the NPDES Permit.
27. Approving payment of \$22,598.80 to Mark Bainter for a workers' compensation claim.
28. Approving payment of \$5,504.30 to Tish Klinge as the result of sewer backups.
29. Approving settlement agreement in the amount of \$55,625 to Tracy and Tomi Taylor for an injury sustained on May 1, 2007.

CITY MANAGER COMMUNICATIONS

30. Submitting training requests for Anna Young, Michael Bartak, Anthony Ballantini and Brian Mathis.

(Council Communication No. 09-283)

APPROVING

31. Renewal of Employee Assistance Program (EAP) Services through the Employee and Family Resources, Inc.

(Council Communication No. 09-258)

32. Acceptance of \$12,000 donation from the Meredith Corporation Foundation for improvements to the Meredith Trail.

(Council Communication No. 09-270)

33. Agreement for shared use of Park and Recreation Facilities and Des Moines Independent Community School District Facilities.

(Council Communication No. 09-285)

34. Agreement for Park and Recreation Aquatic Education Programming with the Iowa Department of Natural Resources.

(Council Communication No. 09-269)

35. Funding request from the Des Moines Area Sports Commission for the 2009 Junior Olympic Games, \$50,000.

(Council Communication No. 09-274)

36. Department of Justice, 2009 COPS Secure Our Schools Grant Award to bring state-of-the-art security systems to Des Moines schools.

(Council Communication No. 09-264)

37. Application for Recovery Act: 2009 Edward Byrne Memorial Justice Assistance Grant (JAG) and Memorandum of Understanding with Polk County and Cities of Altoona, Ankeny, Clive, Johnston, Pleasant Hill, Urbandale and West Des Moines designating the City of Des Moines as the official applicant and fiscal agent.

(Council Communication No. 09-268)

38. Execution of United States Department of Agriculture Natural Resources Conservation Service Project Agreement for the Emergency Watershed Protection Program and the Operation and Maintenance Agreement for 1706 Pennsylvania Avenue Slope Stabilization.

(Council Communication No. 09-294)

39. Approving letter of agreement for Provisionally Accredited Levee (PAL) Designation and Agreement to provide adequate compliance for the levee designated as RR-1 with the Code of Federal Regulations, Title 44, Section 65.10 with the Federal Emergency Management Agency.

(Council Communication No. 09-280)

40. Application from Drake Area Business Association for banners to be hung on Forest Avenue from 21st Street to 32nd Street, University Avenue from 22nd Street to 32nd Street, 30th Street from University Avenue to Forest Avenue, and 25th Street from Cottage Grove to Carpenter Avenue from April 15 to October 15, 2009.

41. Communication from Downtown Community Alliance on behalf of the Civic Music Association to approve banner design for 30 banners to be displayed in Downtown Des Moines from June through August.

42. Application from St. Anthony's Church for banners across the streets on SW 1st Street and Indianola Avenue, SW 1st Street and Columbus Avenue, 1804 SW 1st Street, 1703 S. Union Street and Granger Avenue, S. Union Street and Jackson Avenue, SE 2nd Street and Jackson Avenue and 11 Dunham Avenue in recognition of the Annual Corpus Christi Celebration on May 17, 2009.

43. Bids from the following:

(A) Kintla Corporation for an annual contract with two (2) additional one-year renewal options to furnish board-up services for vacant and abandoned houses to be used by the Community Development Department, \$34,000. (Three bids mailed, one received).

(Council Communication No. 09-259)

(B) Various vendors for an annual contract with two (2) additional one-year renewal options to furnish construction and aggregate materials to be used by the Public Works Department, \$400,000. (Five bids mailed, five received).

44. Exception to procurement ordinance competitive bidding requirements for State of Iowa contract purchase of Microsoft Software Products and Services from Insight Public Sector, \$198,954.24.

(Council Communication No. 09-296)

45. Civil Service Entrance Lists for Emergency Equipment Technician, Tree Trimmer and Information Technology Network Engineer and Promotional List for Fire Engineer.

46. Authorizing Finance Director to draw checks on registers for the weeks of May 4 and May 11, 2009; to draw checks for bills of the Des Moines Municipal Housing Agency for the weeks of May 4 and May 11, 2009; and to draw checks for bi-weekly payroll due May 8, 2009.

ORDINANCES - FINAL CONSIDERATION

47. On rezoning of the property at 4506 SW 9th Street from "C-1A" (Neighborhood Commercial Reuse) to Ltd. "C-2" (General Retail and Highway Commercial) to allow a construction contractors' business.

ORDINANCES - SECOND CONSIDERATION

48. On request from Hubbell Realty to rezone 1701 E. Euclid Avenue from “M-1” (Light Industrial) to “M-2” (Heavy Industrial) to allow for conversion of a warehouse space to a recycling collection center.

(A) Final consideration of ordinance above, (waiver requested by applicant), requires 6 votes.

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

ORDINANCES - SECOND CONSIDERATION

49. Items regarding request from Menard, Inc. 1201 E. Diehl Avenue, to allow expansion of existing outdoor merchandise area and roofed garden center to north side of existing Menard’s Store, subject to conditions, (requires 6 votes for approval):

(Council Communication No. 09-291)

(A) Amending the 2020 Community Character Land Use Plan future land use designation, from Low Density Residential to Community Commercial.

(B) Second consideration on rezoning of property from “R-160” (One-Family Low-Density Residential) and “C-2” (General Retail and Highway Commercial) to Ltd. “C-2”.

50. On rezoning of 5525 SE 14th Street from Ltd. “R-3” (Multiple-Family Residential) to “R-3”, removing limitation of senior residential housing on multiple-family dwellings and allowing up to 240 multiple-family residential units. (A Plan and Zoning Commission motion to approve the request failed by a vote of 5-5. 6 Council votes are required to approve the request due to the % of opposition by adjoining property owners).

(Council Communication No. 09-290)

ORDINANCES - FIRST CONSIDERATION

51. Amending Chapter 114 of the Municipal Code regarding traffic regulation changes as follows:

(A) Two-sided parking restriction – Pleasant Drive from 6115 Pleasant Drive to 62nd Street.

(B) Designation of Stop Controls – Carman Estates Plat 6, vicinity of SE 24th and E. Payton.

(C) Loading Zone – west side of 2nd Avenue, south of Court Avenue.

(Council Communication No. 09-271)

***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 52 THRU 59)

52. On appeal of Abed Saleh, 3816 106th Street, Urbandale, regarding denial of Transient Merchant License.

53. On appeal from Edward C. Muelhaupt III on the Certificate of Appropriateness for the reconstruction of a retaining wall at 649-18th Street, in the Sherman Hill Historic District:

(Council Communication No. 09-260)

- (A) To affirm the decision.
- (B) Alternate resolution: reverse the decision.

54. On the following items regarding General Obligation Bonds, (**a special Council meeting will be held on June 3rd at 4:00 PM**):

(Council Communication No. 09-261)

- (A) On issuance of not to exceed \$15,895,000 (for Essential Corporate Purposes).
 - (1) Authorization for additional action.
- (B) On issuance of not to exceed \$3,100,000 (for Urban Renewal Purposes).
 - (1) Authorization for additional action.
- (C) On issuance of not to exceed \$695,000 (for General Corporate Purposes).
 - (1) Authorization for additional action.
- (D) On issuance of not to exceed \$995,000, (for General Corporate Purposes).
 - (1) Authorization for additional action.
- (E) On issuances of not to exceed \$555,000 (for General Corporate Purposes).
 - (1) Authorization for additional action.
- (F) On issuance of not to exceed \$770,000 (for General Corporate Purposes).
 - (1) Authorization for additional action.
- (G) On issuance of not to exceed \$995,000 (for General Corporate Purposes).
 - (1) Authorization for additional action.

- (H) On issuance of not to exceed \$815,000 (for General Corporate Purposes).
 - (1) Authorization for additional action.
- (I) On issuance of not to exceed \$1,000,000 (for General Corporate Purposes).
 - (1) Authorization for additional action.
- (J) On issuance of not to exceed \$1,000,000 (for General Corporate Purposes).
 - (1) Authorization for additional action.

- 55. On Proposed Tree Preservation and Mitigation Ordinance and **to continue to July 13, 2009 at 5:00 PM.**
- 56. On approving Airline Operating Agreement and Terminal Building Lease with Continental Airlines, Inc. at the Des Moines International Airport, and **to continue to May 18th at 5:00 PM to allow time for documents to be returned.**
- 57. On conveyance of 2737 Indianapolis Avenue to Neighborhood Builders, LLC, \$3,000.

(Council Communication No. 09-281)

- 58. On Farm Lease Agreement with Robert Campfield for approximately 241 acres in the Des Moines Agrimergent Technology Park at SE 43rd Street and Vandalia Rd., \$69,289.91 per year.

(Council Communication No. 09-282)

- 59. On Ewing Park ADA Improvements: Resolution approving plans, specifications, form of contract documents, Engineer’s Estimate and designating lowest responsible bidder as T K Concrete, Inc., (Tony J. Vermeer, President), \$115,888.

(Council Communication No. 09-292)

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

** END HEARINGS AT _____ PM **

APPROVING

- 60. 2009 Financial Hardship Reduced Fee Program for various park and recreation department recreational facilities and programs and certain cemetery fees.

(Council Communication No. 09-297)

61. Wellmark Blue Cross Blue Shield Administration Contract for employees and certain retirees for Health Insurance and Flexible Spending Accounts (FSA) for FY 09/10.

(Council Communication No. 09-266)

62. Adoption of a policy for naming/renaming of streets, facilities, park facilities and park land in the City of Des Moines.

- (A) Honorary designation of a section of Center St. from 12th Street to M. L. King Jr. Pkwy. after Louis A. Garland Sr.

(Council Communication No. 09-295)

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) 1213 Frazier, Titleholder: Christine M. Stratton; Mortgage Holders: Deutsche Bank National Trust Company, as trustee under the Pooling and Servicing Agreement dated as of April 1, 2003, Morgan Stanley Capital Inc. Trust 2003-NC4 and West Bank.
 - (B) 985 25th Street, Titleholder: Lori J. Weber; Mortgage Holder: First Federal Savings Bank.
2. The release of the fire escrow account held for the structure located at 1366 E. 14th Street. Date of loss: 09-02-2008.

MOTION TO ADJOURN AT _____ P.M.

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