

DES MOINES CITY COUNCIL MEETING

**September 8, 2003
Regular Meeting - 4:30 P.M.
Closed Session - 3:30 P.M.**

Closed Session

I. ROLL CALL-3:30 P.M.

- (a) Recess, and reconvene in closed session pursuant to Section 21.5, subsection 1, paragraph C of the Iowa Code, to discuss as necessary strategy with counsel in matters that are presently in litigation or where litigation is imminent, where its disclosure would be likely to prejudice or disadvantage the position of the City.
- (b) Closed Session to discuss matters of pending litigation.
- (c) Terminate this closed session and reconvene in open session.
- (d) Motion to recess and reconvene at 4:30 P.M.

SPECIAL PRESENTATIONS - 4:15 P.M.:

Recognition of DMPD "HANDS" Unit

INVOCATION: Council Member Mike McPherson

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 56:

LICENSES AND PERMITS:

Approving

4. The following Beer/Liquor Applications:

NEW APPLICATIONS

(1) Some Place Else, 1833 Hubbell Avenue, C Liquor.

RENEWAL APPLICATIONS

(2) Caseys General Store #4, 4560 E 14th Street, C Beer.

(3) Tobacco Outlet Plus #510, 4821 SW 9th Street, C Beer.

(4) India Star, 3620 Beaver Avenue, C Beer/Wine.

(5) Number 1 Chinese Restaurant, 2414 University Avenue, C Beer/Wine.

(6) Carlos O'Kellys Mexican Restaurant, 4371 Merle Hay Rd, C Liquor.

(7) Chi Chis Mexican Restaurant, 1201 E Army Post Rd., C Liquor.

(8) Frathouse, 508 Clifton, C Liquor.

(9) Cigar Source, 3305 Ingersoll Avenue, B Wine.

(10) Wine Etc., 555 Walnut Street, B Wine.

OUTDOOR SERVICE APPLICATIONS

(11) B & B Wine Bar, 2712 Beaver Avenue, C Liquor. Temporary outdoor service from 9-19-03 to 9-20-03 in conjunction with the Beaverdale Fall Festival. Pending approval of the Fire Department.

(12) Blazing Saddle, 416 E 5th Street, C Liquor. Temporary outdoor service area in conjunction with Historic East Village Event on September 12, 2003. Pending Building, Electrical, Zoning and Fire Inspections.

PUBLIC IMPROVEMENTS

5. Accepting completed construction and approving final payment of the following:

(A) Fire Station No. 6, \$22,068.80 remaining balance to be paid at the end of thirty days.

(B) Franklin Avenue and North Side Library Reroofing, \$7,648.30 remaining balance to be paid at the end of thirty days.

6. Approving Private Construction Contracts between the following:

(A) Sternquist Construction, Inc., (Britt Sternquist, President, Indianola, Contractor) and Erickson Development, Inc., (Tim Erickson, President, Bondurant, Owner) for construction of paving improvements for proposed Three Lakes Estates Plat #5 in vicinity of Sweetwater Drive and Brockway Drive, \$184,157.50.

(B) Sternquist Construction, Inc., (Britt Sternquist, President, Indianola, Contractor) and Brook Run L.C., (Tom Gratiyas, President, Clive, Owner) for construction of street improvements for proposed Brook Run Village Plat #9 in vicinity of Village Run Drive and East Douglas Avenue, \$86,937.50.

(C) Sternquist Construction, Inc., (Britt Sternquist, President, Indianola, Contractor) and Brook Run L.C., (Tom Gratiyas, President, Clive, Owner) for construction of street improvements for proposed Brook Run Village Plat #10 in vicinity of Village Run Drive and East Douglas Avenue, \$95,887.

6-I. Approving contract for emergency Scott Street Siphon repair with VanHauen & Associates, Inc., Mark VanHauen, Vice President/CEO, Clive, \$565,000.

7. Approving Agreement for mutual release of claims, and accepting completed construction and approving final payment, in conjunction with the Sec Taylor Field Replacement Project.

SPECIAL ASSESSMENTS

8. Approving Delinquent Sewer Rental and/or Solid Waste Stormwater Utility fees for August 2003 for certification to Polk County.

9. Authorizing Engineering Department staff to correct delinquent Solid Waste/Stormwater Utility and/or Sewer Rental credits Schedule for August 2003.

LAND/PROPERTY TRANSACTIONS

10. Approve and accept real estate documents for property for the Gay Lea Wilson Recreational Trail Project, (3208, 3300, 3304, 3314, 3114, and 3014 East 35th Street), \$4,650 plus closing costs.

11. Establish fair market value and authorize acquisition of property at 3626 Vandalia Road for the Agrimergent Technology Park Project, \$36,000 plus closing costs.

BOARDS/COMMISSIONS/NEIGHBORHOODS

12. Communication from Kathleen Little advising of her resignation from the Urban Design Review Board (Seat #11) effective August 25, 2003.

13. Appointments replacing Regular and Alternate Member Representatives to the Des Moines Area Metropolitan Planning Organization to the MPO Transportation Technical Committee (TTC).

13-I Recommendation of Mayor Preston Daniels to appoint Scott Allen to the Urban Design Review Board (Seat #1) to expire June 30, 2005.

STREET CLOSURES

14. Approving recommendation of Street Use Team to close the following streets:

(1) Marty Albert, representing Meredith Corporation, requesting permission to close Water Street from Market to Martin Luther King Parkway on Thursday, September 25, 2003 from 4 PM to 9 PM for Designs on Downtown (Employee Event Hosting Community Leaders).

(2) Shannon Boswell, representing Historic East Village Inc., requesting permission to close E. 5th Street from Grand Avenue to Walnut Street; E. Locust Street from E. 4th Street to E. 6th Street from 12 PM on Friday, September 12, 2003 to 8 PM on Saturday, September 13, 2003 for "Fame on 5th" Festival.

(3) Angela Van Riessen, representing Allied Insurance DMRO, requesting permission to close Walnut from 10th to 12th Street on Friday, September 12, 2003 from 10 AM to 3 PM for Associate Tailgate Party.

(4) Tracey Bruner-Rayhons, representing Science Center of Iowa, requesting permission to close SW 4th Street from Court Avenue to Market Street (Raindate of Sunday, October 12, 2003) for a Family Festival and Laser Show.

(5) Richard McCabe, representing 515 Alive, requesting permission to close 4th Street from Court Avenue to Walnut Street on Saturday, September 27, 2003 from 2 PM to 2 AM for an Urban Music and Art Festival.

(6) Roberta Conrad, representing 40th Place Neighborhood, requesting permission to close 40th

Place from Franklin Avenue to Hickman Road on Sunday, September 21, 2003 from 12 PM to 6 PM for a neighborhood block party.

(7) Erica Buckwalter, representing 40th Place Neighborhood, requesting permission to close 40th Place from Rollins Avenue to Crocker Street on Saturday, September 27, 2003 (Raindate of Saturday, October 4, 2003) from 6 PM to 9 PM for a neighborhood block party.

(8) Shirley Brunk, representing Maryland Pike Neighborhood, requesting permission to close Maryland Pike from Beaver Crest to Holland Drive on Saturday, September 27, 2003 from 12 PM to 10 PM for a neighborhood block party.

(9) Cecilia Benetti, representing 46th Street Neighborhood, requesting permission to close 46th Street from Kingman Boulevard to University Avenue on Saturday, September 20, 2003 from 5:30 PM to 10 PM for a neighborhood block party.

(10) Lisa Martin-Hansen, representing 43rd Street Neighbors, requesting permission to close 43rd Street from University to Forest on Saturday, September 27, 2003 from 11 AM to 4 PM for a neighborhood block party.

CITY PLAN COMMISSION RECOMMENDATION

15. Regarding preliminary subdivision plat for "Shoreline at Easter Lake" in the vicinity of 5646 SE 36th Street.

16. Regarding amendment to the Des Moines 2020 Community Character Land Use Plan, to amend the future land use designation from Low/Medium Density Residential to General Industrial, for property at 705 SE 6th Street.

SETTING DATE OF HEARINGS

17. On vacation and sale of the east/west alley between E. Granger and E. Dunham from SE 3rd to SE 4th to 9 abutting property owners, (9-22-03).

18. On sale of City-owned property at 223, 225, 301, 305, and 309 East Holcomb Avenue, \$24,750, (09-22-03).

19. On sale of alley right-of-way between Virginia Avenue and Pleasant View Drive, west of SW 9th Street, to 5 abutting property owners, (9-22-03).

20. On sale of property at 6217 Edwards and 6220 Welker to R.M. Madden Construction, Inc., \$20,030, (9-22-03).

21. On sale of alley right-of-way between South Union and SE 8th Street south of Wisconsin to 3 abutting property owners, (9-22-03).

22. On request from Eleanor Bates to rezone property at 229 Franklin Avenue from "R-3" (Multiple-Family Residential) and "FW" (Floodway) to "C-2" (General Retail and Highway Oriented Commercial), (Plan and Zoning Commission recommends DENIAL), (9-22-03).

23. On request from Mercy College to rezone property at 928 6th Avenue from "C-2" (General Retail and Highway Oriented Commercial) to "C-3A" (Central Business District Support Commercial) to allow expansion of the main campus building, subject to conditions, (9-22-03).

24. On 10th Amendment to the Omnibus Urban Renewal Plan Amendment to the Model City Prime Service Area, (sever property from City View Plaza Urban Renewal Plan), (9-22-03).

[\(Council Communication No. 03-437\)](#)

25. On authorization of a Loan Agreement and issuance of not to exceed \$2,500,000 General Obligation Capital Loan Notes, (9-22-03).

[\(Council Communication No. 03-444\)](#)

LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS

26. Approving payment of \$14,072.56 to Kimberly Piper for worker's compensation claim for an injury during course and scope of employment.

27. Approving payment of \$21,708.93 to Howard Kernes for workers' compensation claim for an injury during course and scope of employment.

28. Approving payment of \$20,111.85 to Maurice Nichols for worker's compensation claim for an injury during course and scope of employment.

29. Approving payment of \$17,455.69 to Ronald Hudnall for worker's compensation claim from an injury during course and scope of employment.

30. Approving payment of \$1,301.42 to Ahlers & Cooney, P.C. for outside bond counsel for services related to Supplements of the Master Lease Program.

31. Approving payment of \$94.50 to Ahlers & Cooney, P.C. for environmental law counsel services in conjunction with development of Kiwanis Nature Island at Riverview Park.

32. Approving retention of Chester C. Woodburn III at \$95 per hour from Hansen, McClintock & Riley for representation of former Fire Chief Ron Wakeham in federal district court lawsuit Barbara A. Rodgers v. City of Des Moines, et al.

CITY MANAGER COMMUNICATIONS

33. Submitting various traffic regulation changes as follows:

(1) Designation of Handicapped Parking Meters--East and West Sides of 6th Avenue, North of Walnut Street.

(2) Corner Clearance--North Side of East Locust Street, West of Pennsylvania Avenue.

(3) Loading Zone--North Side of Locust Street, East of 2nd Avenue.

(4) Loading Zone--North Side of Raccoon Street, East of SE 8th Street.

[\(Council Communication No. 03-448\)](#)

34. Submitting out-of-state travel for Susan Minks, Robert Schulte, and Kris Tuttle.

[\(Council Communication No. 03-433\)](#)

APPROVING

35. Extension of Child Care Center Operational Agreement with Drake University to operate its Head Start Program in Child Care Center located above Fifth Street and Watson Powell, Jr. Way parking garage to June 30, 2004.

[\(Council Communication No. 03-447\)](#)

36. Cooperative Agreement between the City and the United States Department of Housing and Urban Development (HUD) for the Des Moines Human Rights Commission, \$64,800.

37. First Amendment to Real Estate Mortgage, Assignment of Leases and Rents and Subordination Agreement with Woodland Avenue Partners, L.P. for the Woodland Avenue Brickstone Apartment project.

[\(Council Communication No. 03-443\)](#)

38. Authorizing staff to negotiate terms of redevelopment proposals for proposed East Village Square Development for Disposition Parcel No. 02-A1 in the Metro Center Urban Renewal Project Area.

[\(Council Communication No. 03-438\)](#)

(A) Proposed East Village, L.L.C. on a site within the Eastern Gateway District Area "1" in Metro Center Urban Renewal Project Area.

39. Extension of closing date to December 1, 2003 for sale of former Stew Hansen Site at M L King Luther Pkwy. and Ingersoll to Knapp Properties.

[\(Council Communication No. 03-436\)](#)

40. Acceptance of contract with Public Financial Management, Inc. to provide the City's Financial Advisory Services, three year term with two one-year renewals.

[\(Council Communication No. 03-441\)](#)

41. Reimbursement Agreement with Transportation Security Administration for Law Enforcement Services at the Airport.

[\(Council Communication No. 03-445\)](#)

42. Public Works Department's status report on automated/semi-automated solid waste collection.

[\(Council Communication No. 03-449\)](#)

43. Documents related to the Police Department's participation in the Project Safe Neighborhood Grant Program.

[\(Council Communication No. 03-435\)](#)

44. City of Des Moines 2003 Equal Opportunity Report and the Affirmative Action Annual Work Plan by the Human Resources Department.

[\(Council Communication No. 03-432\)](#)

45. Waveland Park Neighborhood Plan as an amendment to the Des Moines 2020 Community Character Plan.

[\(Council Communication No. 03-434\)](#)

46. Execution of a Letter Agreement and of a First Amendment to Electric Service Agreement with MidAmerican Energy Company in conjunction with the City's request that selected

streetlights along arterial and collector streets be turned off.

[\(Council Communication No. 03-452\)](#)

47. License Agreement with Wellmark, Inc. for the installation and operation of a fiber optic communications system in City sidewalks.

48. Second Amendment of the Gas Transmission Pipeline Relocation and Reimbursement Agreement with MidAmerican, increasing the maximum "not-to-exceed" reimbursable amount to \$467,970.

[\(Council Communication No. 03-451\)](#)

49. Ratifying prior approval of the voluntary annexation of territory in unincorporated Warren County owned by MidAmerican, Amerus, Colby and Ten Hagen Trusts.

50. Use of various City Facilities as poll sites for precincts 31, 36, 60, 64, 82, and 83 for the City Primary Election to be held Tuesday, October 7, 2003.

51. 2004 City Council Schedule of meeting dates.

52. Civil Service Entrance Lists for Housing Services Application Specialist, Systems Operations Administrative Coordinator, Intermediate Clerk Typist, and Electronic Technician.

53. Authorizing Finance Director to issue checks on registers of September 11 and September 18, 2003; and to draw checks for the bills of the Des Moines Municipal Housing Agency for the weeks of September 8 and September 15, 2003; and to draw checks for biweekly payroll due on September 19, 2003.

ORDINANCES - FINAL CONSIDERATION

54. On vacation of a portion of the North/South alley between 30th Street and 31st Street and the North/South alley between 31st Street and 32nd Street.

55. On vacation of east/west alley adjoining 112-10th Street.

(A) Approving Development Agreement with Massman Group, LLC (10th Street Lofts, L.P. for 110-112 - 10th Street) and authorizing conveyance of eastern portion of E/W alley adjacent to subject properties.

[\(Council Communication No. 03-439\)](#)

ORDINANCES - SECOND CONSIDERATION

56. Amending Chapter 42 of the Municipal Code deleting the grading permit one-call surcharge.

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

COMMUNICATIONS/REPORTS

57. Approving recommendation of the Street Use Team regarding request from Helene Neville, representing the Des Moines Marathon to close the following streets for the Des Moines Marathon, Sunday, October 5, 2003:

- (1) 4th Street, South end to Walnut from 5 to 8:30 AM.
 - (2) Walnut Street from 4th Street to 10th Street from 7:55 AM to 8:15 AM.
 - (3) 10th Street from Walnut Street to High Street from 7:55 AM to 8:15 AM.
 - (4) W. River Drive from 6 AM to 7 AM.
 - (5) E. 5th Street from Walnut Street to Locust Street from 8:15 AM to 2:30 PM.
 - (6) E. 5th Street from Locust Street to Grand Avenue from 8:15 AM to 10 AM.
 - (7) Grand Avenue from 42nd Street to Polk Boulevard from 8 AM to 11:45 AM.
 - (8) Polk Boulevard from Grand Avenue to Lakeview Drive from 8 AM to 11:45 AM, Saturday, October 4, 2003 to Sunday, October 5, 2003
 - (9) Riverside Drive from Court Avenue to Sec Taylor Stadium on Saturday October 4, 2003 at 8 AM to Sunday, October 5, 2003 at 7:30 PM.
- (A) Request from Des Moines Marathon for approval to hang a temporary banner at the start of the marathon (4th and Court) on October 5, 2003 and to announce at start and finish lines, 7 AM to 8:10 AM at 4th and Court and 9 AM to 2:45 PM at Riverside Drive.

HEARINGS (Opened at _____ P.M.) (Items 58 thru 65)

58. On vacation and sale of dead end stub of East Hughes Avenue running east of SE 8th Street to the Des Moines Independent School District, \$1, (continued from 8-25-03).

- (A) First consideration of ordinance above.
- (B) Final consideration of ordinance above, (waiver requested by Des Moines School District), requires 6 votes.

[\(Council Communication No. 03-440\)](#)

59. On sale of City-owned property between E. 15th and E. 16th Street and Walnut and Dean Streets to HOME, Inc. in conjunction with East Walnut Street Redevelopment Project.

(Council Communication No. 03-442)

60. On request from James Colby Cunningham to rezone 705 SE 6th Street from "R1-60" One-Family Low-Density Residential District to "M-1" Light Industrial District to allow new offices and testing laboratory for Team Services engineering and testing, subject to conditions.

(A) First consideration of ordinance above.

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

61. On Non-Commercial Aviation Operation Lease with Principal Life Insurance Company, for construction of a corporate hangar and other facilities, \$59,774.88 per year.

(Council Communication No. 03-446)

62. On Purchase Agreement for acquisition of 100 E. Second Street and 101-103 E. Second Street from C & C Realty, Ltd. and Charles A. and Carolyn M. Colosimo, \$1,630,000.

63. On "R-5" Final Development Plan for property on the west side of 6900 block of Indianola Avenue.

64. On Skywalk 4F-5F Skylight Replacement:

(A) Resolution to reject all bids and close hearing on plans, specifications, form of contract documents and Engineer's estimate.

(B) Resolution ordering construction and fixing a date for hearing (October 6, 2003) and receiving of bids (September 30, 2003).

65. On Glendale Cemetery HMA Overlay: Resolution approving plans, specifications, form of contract documents, Engineer's estimate, and designating lowest responsible bidder as Grimes Asphalt & Paving Corp. (J.M. Yonker, President, Grimes), \$45,785.

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

* * END HEARINGS at _____ P.M. * *

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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.

A G E N D A

BOARD OF HEALTH

September 8, 2003

MOTION TO CONVENE

HEARINGS

1. On resolution to demolish and remove dangerous garage structure or to determine appropriate equitable action to be taken at 701 Boyd Street, Titleholders: Larny Hendricks and Shirley R. Branch, Mortgage Holder: West Des Moines State Bank.

AUTHORIZING

2. Court authority to abate the public nuisance at the following locations:

(A) 3510 SW 5th Street (vacant) Titleholders: Regina L. Anderson, Peter J. Acri, Lisa J. Hatch and Christine Burbage.

(B) 1218 34th Street (occupied) Titleholder: Drake University, Contract Buyers: Delta Omicron Chapter Housing Corporation.

(C) 3140 Indianola Road, mobile home unit number 14 (vacant) Titleholder: Richard L. Clark.

(D) 3140 Indianola Road, mobile home unit number 19 (vacant) Titleholder: Richard L. Clark.

(E) 3140 Indianola Road, mobile home unit number 22 (vacant) Titleholder: Richard L. Clark.

(F) 3140 Indianola Road, mobile home unit number 24 (vacant) Titleholder: Richard L. Clark.

(G) 3140 Indianola Road, mobile home unit number 40 (vacant) Titleholder: Richard L. Clark.

(H) 3140 Indianola Road, mobile home unit number 49 (vacant) Titleholder: Richard L. Clark.

(I) 919 Titus (vacant) Titleholders: Joseph L. Coco d/b/a C & E Rentals and Martin J. Ermels d/b/a C & E Rentals, Contract Buyers: James P. Saltzman and Stacey L. Sims.

3. The Engineering Department to cause the removal of 3109 38th Street, Titleholder: Randy L. Simonini.

[\(Council Communication No. 03-450\)](#)

MOTION TO ADJOURN AT _____P.M.