DES MOINES CITY COUNCIL MEETING

September 12, 2005 4:30 P.M.

RECOGNITIONS – 4:15 P.M.

Christina Holaday, Miss Des Moines Iowa Jr. Teen 2005

INVOCATION: Rev. Sue Schneider
St. John's Lutheran Church

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 70:

LICENSES AND PERMITS

4. Approving Alcoholic Beverage License applications for the following:

   NEW APPLICATIONS

   (A) DRAKE UNIVERSITY OLD MAIN 2507 UNIVERSITY AVE C
       Beer/Wine

   RENEWAL APPLICATIONS

   (B) AK OCONNORS 4050 URBANDALE AVE C
       Liquor

   (C) CIGAR SOURCE 3305 INGERSOLL AVE B
       Wine
| Location | Name                  | Address                  | Category       |
|----------|-----------------------|--------------------------|----------------|-----------------|
| D        | DES MOINES IZAAC WALTON | 4343 GEORGE FLAIGG       | C              |
| E        | DES MOINES MARRIOTT HOTEL | 700 GRAND AVE           | B              |
| F        | DES MOINES MARRIOTT HOTEL | 700 GRAND AVE           | E              |
| G        | EMBASSY CLUB           | 1011 LOCUST ST          | C              |
| H        | EMBASSY SUITES HOTEL   | 101 E LOCUST ST         | B              |
| I        | FRATHOUSE              | 508 INDIANOLA RD        | C              |
| J        | INDIA STAR             | 3620 BEAVER AVE         | C              |
| K        | LOS PINOS              | 3311 SE 14TH ST         | C              |
| L        | MERLE HAY HANDIMART    | 4151 MERLE HAY RD       | C              |
| M        | MERLE HAY LANES        | 3800 MERLE HAY RD       | C              |
| N        | PLAYHOUSE              | 1011 LOCUST ST          | C              |
| O        | SCRUFFYS DELI AND CATERING | 429 GRAND AVENUE       | B              |
| P        | SHOP-N-SAVE            | 2127 ML KING JR PKWY E  | C              |
| Q        | SMOKEYS TRIANGLE TAP   | 2506 POST              | C              |

**OUTDOOR SERVICE APPLICATIONS**

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<td>AK OCONNORS</td>
<td>4050 URBANDALE AVE</td>
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<td>VETERANS MEMORIAL AUD.</td>
<td>833 5TH AVENUE</td>
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Temporary outdoor service area in conjunction with the Beaverdale Fall Festival, September 16-18, 2005. Pending approval of Fire Department.

Temporary outdoor service area in conjunction with Green Day Concert on September 17, 2005. Pending approval of Fire Department.

**SPECIAL EVENT APPLICATIONS**

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<td>T</td>
<td>RACCOON RIVER BREWING CO.</td>
<td>25 E COURT AVE</td>
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Beer
In conjunction with the Latino Heritage Festival on September 17, 2005.

PUBLIC IMPROVEMENTS

5. Resolution Ordering Construction of the following:
   (A) Cownie Soccer Stadium Plaza Improvements - Receiving of Bids, (9-27-05), and Setting Date of Hearing, (10-10-05). (Construction Estimate - $182,600).
   (B) Emergency Operations Centers Standby Power – Receiving of Bids, (9-27-05), and Setting Date of Hearing, (10-10-05). (Construction Estimate - $350,000).
   (C) Zooplex Storm Sewer Improvements - Receiving of Bids, (9-27-05), and Setting Date of Hearing, (10-10-05). (Construction Estimate - $27,000).

6. Approving residential paving on portions of E. Elm Street, South Union Street, SW 7th Street, SW 60th Street and 57th Place:
   (A) Communication from City Manager.
   (B) Preliminary resolution for construction.
   (C) Fixing values of lots.
   (D) Adopting preliminary plat and schedule, estimate of costs and proposed plans and specifications.
   (E) Proposed Resolution of Necessity, Notice to Property Owners of Hearing and Setting Date of Hearing, (10-10-05).

7. Approving sidewalk construction on portions of SW 60th Street, Shriver Avenue in the 5400/5500 Block, and M.L. King Jr. Parkway:
   (A) Communication from City Manager.
   (B) Preliminary resolution for construction.
   (C) Fixing values of lots.
(D) Adopting preliminary plat and schedule, estimate of costs and proposed plans and specifications.

(E) Proposed Resolution of Necessity, Notice to Property Owners of Hearing and Setting Date of Hearing, (10-10-05).

8. Approving Professional Services Supplemental Agreement No. 3 with Veenstra & Kimm, Inc. (H.R. Veenstra, President, WDSM) in conjunction with the Combined Sewer Overflow Flow Metering Installation, not to exceed $5,000.
   (Council Communication No. 05-510)

9. Approving Professional Service Supplemental Agreement No. 1 with Snyder & Associates, Inc. in conjunction with the Leetown Creekway Wooden Box Replacement Phase III, not to exceed $43,000.
   (Council Communication No. 05-511)

10. Approving and authorizing the Iowa Department of Transportation Predesign Agreement for E. 14th Street (U.S. 69) from E. University Avenue to E. Aurora Avenue.
    (Council Communication No. 05-512)


12. Approving completion and recommending acceptance of the following Private Construction Contracts:
    (A) Eco-Tech Construction, Inc. and Tom Connolly Homes, Inc. for Street Improvements for Debbie Place at York Street and Jerlynn Avenue.
    (B) Eco-Tech Construction, Inc. and Tom Connolly Homes, Inc. for Sanitary Sewer Improvements for Debbie Place at York Street and Jerlynn Avenue.
    (C) Eco-Tech Construction, Inc. and Tom Connolly Homes, Inc. for Storm Sewer Improvements for Debbie Place at York Street and Jerlynn Avenue.
(D) McAninch Corporation and Iowa Realty Company/AmerUs Land Development for Storm Sewer Improvements in the development, Easter Lake Estates Plat 2, located at SE 32nd Avenue and E. Wall Street.

(E) McAninch Corporation and Parkside East L.P. for Sanitary Sewer Improvements for proposed Parkside East Apartments located at 3550 East Douglas.

(F) McAninch Corporation and Parkside East L.P. for Sanitary Sewer Improvements for proposed Parkside East Apartments located at 3540 East Douglas.

(G) McAninch Corporation and Parkside East L.P. for Sanitary Sewer Improvements for proposed Parkside East Apartments located at 3550 East Douglas.

(H) McAninch Corporation and Fleur Properties, L.C. for Sanitary Sewer Improvements and relocation of existing sanitary sewer that crosses Airport Crossroads located at Fleur Drive and County Line Road.


14. Approving request from Christensen Bros., Inc. to sublet certain items on the SW 9th Street Viaduct over M.L. King, Jr. Parkway and Railroad Bridge Rehabilitation.

15. Approving completed construction and final payment to Baker Electric, Inc. for Merle Hay Road and Douglas Avenue Traffic Signals.

SPECIAL ASSESSMENTS


17. Approving deletion of NAC – Emergency Assessments at various locations.
18. Receive, file and authorize execution of petition and waiver form for curb replacement program/request to repair driveway executed by one property owner.

**LAND/PROPERTY TRANSACTIONS**

19. Real estate documents for 4956 SW 56th Street and 5241 McKinley Avenue for the Airport Runway 13R/31L Project.

20. Authorization to acquire right-of-way and easements for 2nd Avenue (Iowa 415) and Douglas Traffic Signal Improvements.

21. Authorize payment of condemnation award for partial acquisition of property at 6554 Center Street for American Discovery Trail Project-Walnut Creek Segment (63rd to Center), $6,700 plus Sheriff’s fees and jury expenses.

22. Authorize payment of condemnation award for partial acquisition of property at 6214 Grand Avenue for American Discovery Trail Project-Walnut Creek Segments 1 and 2, $20,000 plus Sheriff’s fees and jury expenses.

23. Establishing Fair Market Value and authorizing acquisition of 4585 SE 62nd Avenue, Carlisle, for Southeast Ridge Trunk Sanitary Sewer Project-Phase Two, $16,650 plus closing costs.

24. Approving final subdivision plat entitled Airport Crossroads, west of Fleur Drive, north of County Line Road and on either side of SW 22nd Street.

   *(Council Communication No. 05-495)*

25. Approving extension of time for recording of subdivision plat entitled Norah Grace Park between SW 4th and SW 5th Streets, south of Wall Avenue.

26. Approving release of Letter of Credit No. 2005-03, $6,413 as security on Grandshire Estates for satisfactory completion of required improvements.

27. Approving Joint Agreement with Polk County consenting to establishment of Saylorville Business Park Urban Renewal Area (within two mile jurisdiction area of City).
28. Approving six (6) Tax Abatement Applications filed within the two-year grace period.

   (Council Communication No. 05-497)

29. Approving Tax Abatement Applications for additional value added by improvements made during 2003 and 2004, for 5423 SE 29th Street, 2327 Philip Avenue, and 2623 Bent Ridge Court and 2613 Bent Ridge Court.

   (Council Communication No. 05-496)

30. Approving renaming E Hart Avenue to Hart Avenue within Sterling Trace Plat 1.

BOARDS/COMMISSIONS/NEIGHBORHOODS

31. Approving reassignment of seats for the following:

   (A) Board of Power Engineer Examiners.

   (B) Citizen Odor Board.

32. Recommendation of Mayor Frank Cownie to appoint representatives and alternate representatives to the Wastewater Reclamation Authority Management Agency, commencing September 1, 2005 to expire on December 31, 2005.

COMMUNICATIONS FROM PLANNING AND ZONING

33. Regarding request from Woodland Heights Organization for vacation and conveyance of the north/south alley between 24th and 25th Streets from Rollins Avenue to Interstate 235, subject to conditions.

SETTING DATE OF HEARINGS

34. On conveyance of property abutting 1645 24th Drive, to Michael J. and Lori J. Greene, $75, (9-26-05).

   (Council Communication No. 05-515)
35. On vacation and conveyance of a portion of 36th Street right-of-way south of Douglas Avenue to Jerry D. Lohner, $600, (9-26-05).

(Council Communication No. 05-516)

36. On vacation and conveyance of a strip of vacated 62nd Street right-of-way between Grand Avenue and Walnut Hill Drive, to System Capital Real Property Corporation, $5,700, (to correct error in legal description in Roll Call 05-1190), (9-26-05).

37. On request from Hubbell Properties II, LC to rezone property in the vicinity of 4615 NE Hubbell Avenue from “A-1” (Agricultural) to “PUD” (Planned Unit Development), to allow 38.89 acres of land identified for single-family residential development, with a minimum lot width of 55 feet and lot area of 6,875 square feet; 2.6 acres designated for open space, and 3.12 acres along Hubbell Avenue identified for Highway-Oriented Commercial Use, and approval of the Summersfield Concept Plan subject to conditions, (9-26-05).

38. On request from Curley Top LLC to rezone 1720 SW 1st Street from “M-1” (Light Industrial) to “R-4” (Multiple Family Residential) to allow construction of a 40 unit three story apartment building for senior living, (9-26-05).

(A) City Plan and Zoning Commission recommendation regarding vacation and conveyance of the north/south alley running between Indianola Avenue and SW 2nd Street from Dunham Avenue to vacated Granger Avenue, subject to conditions.

39. On voluntary annexation and rezoning of property east of Lower Beaver Road at the eastern terminus of Bel Aire Road, Twana Drive and Valdez Drive and at the northern terminus of Martin Luther King Jr. Parkway from “A-1” (Agricultural), to “PUD” (Planned Unit Development), and approval of PUD Conceptual Plan, (Tai Village Inc. and Savannah Homes Inc.), (11-7-05).

40. On application for voluntary annexation, including some land without owners’ consent, from Norman R. Havel and the Patricia A. Havel Family Trust, seeking annexation of approximately 130 acres of land, north of NE 38th Avenue (E. Douglas) between NE 48th Street and Highway 65, (11-7-05).
41. On request from Baker LP to rezone property located in vicinity of 2629 E. 29th Street and 2903 Grandview Avenue from “R1-60” (One-Family Low Density Residential) to “C-1” (Neighborhood Retail Commercial) to allow garage addition to existing mixed use commercial/residential building and to include existing off-street parking areas accessory to building, (9-26-05).

(Council Communication No. 05-517)

42. On proposed Forest Avenue Urban Renewal Plan, (10-24-05).

(Council Communication No. 05-508)

LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS


44. Approving payment of $1,076.54 to Myers & Jenkins for representation in ATA Holdings Corporation bankruptcy and UAL Corporation bankruptcy.

45. Approving payment of $522.50 to Nyemaster, Goode, West, Hansell & O’Brien, P.C. for airport title opinion work.


47. Approving payment of $39,915 to Wayne Kozak for workers compensation claim for a permanent injury.

CITY MANAGER COMMUNICATIONS


(Council Communication No. 05-487)
49. 2004 Supportive Housing Program Renewal Grant Agreement with HUD for supplemental funding for local homeless programs to address service gaps.

(Council Communication No. 05-491)

50. Second Amended Conceptual Design Plan for Metro Lofts Condominiums/Metro Center Urban Renewal Area for proposed reduction of brick on the exterior facades.

(Council Communication No. 05-490)

51. Revitalize Iowa’s Sound Economy (RISE) Grant Application to construct and reconstruct roadways in Riverpoint West area, SW 11th Street from Martin Luther King, Jr. Parkway to MTA Lane, Murphy Street from SW 9th to SW 11th Streets and Tuttle Street from SW 11th Street to 300’ east.

(Council Communication No. 05-501)

52. Support of application by Des Moines Community Investment Corporation for New Market Tax Credits.

(Council Communication No. 05-520)

53. Applications for Enterprise Zone Benefits for projects in Des Moines Gateway Enterprise Zone for the following:

(A) Brownstones on Grand, L.L.C., 43 brownstones in four phases located between 2nd and 3rd Streets, and Grand Avenue and Watson Powell Drive.

(Council Communication No. 05-502)

(B) Court Avenue Ventures, L.L.P., 40 condominiums ½ block south of intersection of 4th Street and Court Avenue.

(Council Communication No. 05-503)

(D) Equitable, LP, 15 luxury condominiums in former Equitable Building, 604 Locust Street.
54. Professional Services Agreement with Dunbar/Jones PLC for consulting services to develop a site plan for traffic congestion and pedestrian safety concerns around west end of Union Park, not to exceed $14,015.

55. Operation Downtown reimbursement for beautification and maintenance projects that were made on Nollen Plaza and Court Avenue in preparation for the National Governor’s Association meeting last July.

56. Professional Services Agreement with Prairie Wetlands, (Tre Wilson, Proprietor, DSM) for services associated with natural forest regeneration, $7,920.

57. Negotiation of a contract with Durham Communications Incorporated (John Durham, President, Mesa, Arizona) for installation of a Mobile Data Infrastructure for Public Safety and identification of funding sources.


59. Lease Agreement with the HOLA Center, 618 E. 18th Street for office space to house two Des Moines Police Officers to aid in providing more comprehensive law enforcement services to the Hispanic Community.

60. Agreement with Mercy Medical Center – Des Moines EMS School for provision of clinical education by Des Moines Fire Department.
61. Request from Des Moines Marathon for approval of banners across the street at 4th and Locust and 3rd and Locust on September 18, 2005, (pending approval of Traffic and Transportation and Risk Management).

62. Bids from the following:

   (A) Louie’s Floor Covering for an annual contract with two additional one-year renewal options for carpet and vinyl tile installation services to be used by the Park and Recreation Department, $40,000. (Eight bids mailed, three received).

   (B) Tri State Turf for Toro grounds care equipment per State of Iowa Department of Transportation Contract 2346 to be used by Waveland and Grandview Golf Courses of the Park and Recreation Department, $115,679.

   (C) Eddy-Walker Equipment Company for refuse truck equipment repair parts to be used by the Solid Waste Division of the Public Works Department, $53,218.62.

   (D) Graybar Electric and Van Meter Industrial for an annual contract with two additional one-year renewal options for miscellaneous electrical parts and supplies to be used by the various Operating Departments, $140,000. (Five bids mailed, two received).

63. Civil Service Entrance Lists for Transcriber Typist, Public Safety Mobile Data Specialist, Airport Properties Administrator, Public Safety CAD Specialist and Housing Services Administrative Secretary and Promotional List for Fleet Services Master Mechanic.

64. Authorizing Finance Director to draw checks on the registers of September 8, September 15, and September 22, 2005; and to draw checks for bills of the Des Moines Municipal Housing Agency for the weeks of September 6, September 12, and September 19, 2005; and to draw checks for biweekly payroll for September 16, 2005.

ORDINANCES - FINAL CONSIDERATION

65. Amending Chapter 42 of the Municipal Code regarding run-off and illicit discharge requirements of the City’s National Pollution Discharge Elimination System and maintenance of drainage facilities.
66. Amending Chapter 118 of the Municipal Code, providing clarification that septic tank systems or private sewage disposal systems which are detrimental to the environment are prohibited and providing for municipal infraction and administrative penalties.

67. Amending Schedule of Administrative Penalties for various provisions of Chapters 42 and 118.

ORDINANCES - SECOND CONSIDERATION

68. Vacating the portion of 14th Street and any remaining alley rights-of-way and reserved easements for public utilities within the two block area located between Locust Street and Grand Avenue, and between 13th and 15th Streets.


(Council Communication No. 05-489)

70. Amending Chapter 14 of the Municipal Code regarding traffic regulation changes as follows:

(A) Corner clearance-south side of Indiana Avenue, west of 2nd Avenue.

(B) Parking restriction-east side of South Union Street from E. Dunham Avenue to E. Edison Avenue.

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

ORDINANCES - FIRST CONSIDERATION


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

(A) Parking restriction-east side of SE 28th Street from Brockway Drive to the cul-de-sac.
(B) Revision to school passenger loading and unloading zones.

(C) Revision to parking prohibition during certain hours on certain days.

(D) Revision to agree with actual on-street conditions - 7th Street between Walnut Street and Locust Street.

(E) Parking revisions due to ongoing construction of the Gateway West Project.

(F) Parking meter revisions – south side of Park Street between 5th Avenue and 7th Street.

COMMUNICATIONS/REPORTS

73. From William Lillis requesting rate relief on behalf of Trans Iowa, LLC dba Capitol Cab Company.

74. Petition from area residents regarding 1537 Arthur Avenue.

HEARINGS (OPEN AT 5:00 P.M.) (ITEMS 75 THRU 84)

75. On appeal from Les Beer of the Historic Preservation Commission decision to deny a Certificate of Appropriateness for construction of new single-family dwelling at 425 28th Street, Owl’s Head Historic District:

   (A) Resolution upholding the decision of the Commission to deny the Certificate.

   (B) ALTERNATE RESOLUTION: Resolution reversing the decision of the Commission and granting the Certificate.

   (Council Communication No. 05-519)

76. On application for Certificate of Public Convenience and Necessity to operate Limousine Services from Jane Kelly-Forret & Michael J. Forret for Racing Limos of Central IA, LLC.

   (Council Communication No. 05-509)

77. On conveyance of portion of SE 12th Street right-of-way between Maury Street and Railroad Avenue to Aztec Motors, $10,000.

   (Council Communication No. 05-514)
(A) First consideration of ordinance above.

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

78. On vacation and conveyance of north/south alley lying east of and adjoining Lot 18, Drake University 3rd Addition, to 2300 University Ave., LLC.

(Council Communication No. 05-513)

(A) First consideration of ordinance above.

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

79. On application from Crown Colony, Inc. for voluntary annexation of property at the southwest corner of Hubbell Road and NE 46th Avenue (a/k/a Broadway Avenue).

80. On voluntary annexation of 248 acres in Warren County, owned by the Spence Family Limited Partnership, south of the North River and immediately east of US Highway 65/69 and to continue to October 10th Council meeting to allow time for annexation and rezoning to be considered at the same time.


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

82. On Flagg Parkway Floodgate Sill Replacement: Resolution approving plans, specifications, form of contract documents, Engineer’s estimate, and designating lowest responsible bidder as Herberger Construction Co., Inc., (Dean Herberger, President, Indianola), $40,366.

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

83. On Riverwalk Civic Gardens: Resolution approving plans, specifications, form of contract documents, Engineer’s estimate, and designating lowest responsible
bidder as Cramer and Associates, Inc., (Robert Cramer, President/CAO), $1,305,000.

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

84. On 2005 Park and Cemetery HMA Improvements: 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), $284,437.50.

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

**END HEARINGS AT ________ P.M. **

APPROVING

85. Acknowledging completion of City Manager Selection Subcommittee responsibilities.

86. Fourth Amended and Substituted 28E Agreement for the Des Moines Area Metropolitan Planning Organization, (MPO).

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. Request from Larry James Jr. to speak regarding suspension of demolition of house at 1104 26th Street and to pursue a Tax Certificate Sale of the property. SPONSOR: Kiernan.
BOARD OF HEALTH

MOTION TO CONVENE.

AUTHORIZING

1. The Legal Department to proceed with court action seeking authority to abate the public nuisance at the following locations:

   (A) 3122 Cornell Street, Titleholder: Deutsche Bank National Trust Company.
   (B) 2041 Des Moines Street, Titleholders: David Chubb, Steve Chubb and Tommy Chubb as heirs of Hazel Chubb.
   (C) 325 Leach Avenue, Titleholder: Roberta L. Reeves; Contract Buyer: Preston T. Reeves.
   (D) 1903 Martin Luther King Jr. Parkway, Titleholder: Anthony D. Lewis; Mortgage Holder: IndyMac Bank, FSB.
   (E) 939 E. 7th Street, Edward and Jill Grant; Mortgage Holder: First National Acceptance Company.
   (F) 1604 E. 9th Street (garage), Titleholder: Kelly M. Howser; Mortgage Holders: Commercial Federal Bank and Allied Group Mortgage Company.
   (G) 1610 E. 9th Street, Titleholder: Mary Sue McMulin.
   (H) 1254 E. 22nd Street, Titleholders: Gary and Suzanne Oeth.
   (I) 1012 37th Street (garage), Titleholder: Glenn E. Meye.
   (J) 4300 54th Street, Titleholder: Lisa A. Herman; Mortgage Holder: Commercial Federal Mortgage Corporation.

2. The release of the demolition cost reserve held by State Farm Insurance Companies under claim number 15-E081-294 regarding the property located 5241 McKinley Avenue insured by John Jolliffe.

3. The release of the demolition cost reserve held by Allied Insurance under claim number 14R46065 regarding the property located at 4125 SE 15th Court insured by Rebecca Davis.

4. The Engineering Department to cause the removal of the structure located at 501 Kirkwood Avenue, Titleholder: Lori Leeper; Mortgage Company: Wells Fargo Bank Iowa, NA and Wells Fargo Financial Bank, (continued from 8-22-05).

MOTION TO ADJOURN AT ______________________ P.M.
All-America City