

DES MOINES CITY COUNCIL MEETING

December 22, 2003 4:30 P.M.

**Reception in the City Hall Great Hall 2:30 – 4:30 P.M.
for Mayor Preston Daniels and Council Member Mike McPherson**

SPECIAL PRESENTATIONS - 4:10 P.M.

Recognition of Council Member Mike McPherson

Recognition of Mayor Preston Daniels

INVOCATION: Pastor Tony Thurston
College Avenue Christian Church

- 1. ROLL CALL:
 - I. Presentation of Robert D Ray Drive street sign
 - II. Approving naming of tennis court complex at Birdland Park to “Mike McPherson Tennis Complex”.

[\(Council Communication No. 03-619\)](#)

- 2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED:

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***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 55:

LICENSES AND PERMITS

4. Approving the following Alcoholic Beverage License applications:

NEW APPLICATIONS

(B)	RANCHO ALEGRE	3308 INDIANOLA AVE	B Beer
(C)	TEQUILA MEXICAN RESTAURANT	2824 EASTON BLVD	C Liquor

RENEWAL APPLICATIONS

(D)	801 STEAK AND CHOP HOUSE	801 GRAND AVE	C Liquor
(E)	A DONG RESTAURANT	1511 HIGH ST	C Beer/Wine
(F)	AMERICAN LEGION HISPANIC POST	1511 S UNION ST	C Liquor
(G)	CHRISTOPHERS DINING ROOM	2816 BEAVER AVE	C Liquor
(H)	CLUB STATIK	215 E 2ND ST	C Liquor
(I)	DAHLS FOODS	1320 E EUCLID AVENUE	C Beer
(J)	DAHLS FOODS	1320 E EUCLID AVENUE	B Wine
(K)	DAHLS FOODS	1819 BEAVER AVE	C Beer
(L)	DAHLS FOODS	1819 BEAVER AVE	B Wine
(M)	GIT N GO STORE #24	1142 42ND ST	C Beer
(N)	GIT N GO STORE #29	4900 URBANDALE AVE	C Beer
(O)	GIT N GO STORE #32	2911 DOUGLAS AVE	C Beer
(P)	HIGHLAND PARK POST NO 374	3712 2ND AVE	A Liquor
(Q)	JESSES EMBERS	3301 INGERSOLL AVE	C Liquor
(R)	JOHNNY MACS BAR & GRILL	2279 HUBBELL AVENUE	C Liquor
(S)	KUM & GO #207	4200 HUBBELL AVE	C Beer
(T)	LA CRUZ	4007 SE 13TH ST	C Beer
(U)	MEZZODIS	4519 FLEUR DR	C Liquor
(V)	MR V'S	206 INDIANOLA AVE	C Liquor
(W)	NOW OR LATER RESTAURANT	3750 E UNIVERSITY AVE	C Liquor
(X)	OASIS WINE AND SPIRITS	1401 BUCHANAN ST	C Beer
(Y)	OASIS WINE AND SPIRITS	1401 BUCHANAN ST	E Liquor
(Z)	OASIS WINE AND SPIRITS	1401 BUCHANAN ST	B Wine
(AA)	PARK AVENUE PUB	1101 PARK AVE	C Liquor
(BB)	TOBACCO OUTLET PLUS #521	2601 E EUCLID AVE	C Beer
(CC)	TUMEA AND SONS	1501 SE 1ST ST	C Liquor

5. City Clerk to issue Cigarette Licenses.
6. City Clerk to issue Coin Operated Machine Licenses.

PUBLIC IMPROVEMENTS

7. Approving IDOT Agreement for SE 14th Street and East Indianola Avenue Intersection Improvements.

[\(Council Communication No. 03-628\)](#)

8. Approving Supplemental No. 1 with Stanley Consultants, Inc. (Gregs Thomopoulos, President, Muscatine) for archaeological investigation and framework flow modeling for the Des Moines River Outfall & Overflow Project - \$68,860.

[\(Council Communication No. 03-627\)](#)
9. Accepting completed construction and approving final payment for the following:
 - (A) Southwest Outfall Relief Sewer, Phase 12, Segment 1, Van Hauen & Associates, Inc., \$58,715.86 is now due and \$91,217.06 is to be paid at the end of thirty days.
 - (B) E. 16th Street and E. Walnut Street Footing Drain Sewer, Elder Corporation, \$7,701.99 is now due and \$2,715.64 is to be paid at the end of thirty days.
 - (C) E. 20th Street Trunk Sanitary Sewer Relining-Jefferson Avenue to Dixon Street, \$41,327.85 is now due and \$131,032.65 is to be paid at the end of thirty days.
10. Approving completion and recommending acceptance of the following Private Construction Contracts:
 - (A) Sternquist Construction, Inc., (Britt Sternquist, President, Indianola, Contractor) and Brook Run, L.C., (Tom Gratias, President, Waukee, Owner) for construction of Paving Improvements for Brook Run Village Plat 3, \$35,715.
 - (B) National Concrete Services, (John Gillotti, President, Des Moines, Contractor) and MidAmerican Energy Company, (Ron W. Stepien, President, Urbandale, Owner) for construction of Street Improvements to construct paved concrete roadway on East County Line Road, \$124,700.
11. Approving completion and recommending acceptance of the following Private Construction Contracts for Stanton Acres Development:
 - (A) Sternquist Construction, Inc., (Britt Sternquist, President, Indianola, Contractor) and Cooper Homes, (James Cooper, President, Des Moines, Owner) for construction of Street Improvements, \$59,562.
 - (B) Corell Contractor, Inc., (Steve Corell, President, WDM, Contractor) and Cooper Homes, (James Cooper, President, Des Moines, Owner) for construction of Sanitary Sewer Improvements, \$79,072.

- (C) Corell Contractor, Inc., (Steve Corell, President, WDM, Contractor) and Cooper Homes, (James Cooper, President, Des Moines, Owner) for construction of Storm Sewer Improvements, \$69,314.10.
12. Approving completion and recommending acceptance of the following Private Construction Contracts for Woods on the River Plat 5:
- (A) McAninch Corporation, (Douglas D. McAninch, President, WDM, Contractor) and Clarke Company, Ltd., (John J. Clarke, Partner/Owner) for construction of Sanitary Sewer Improvements, \$172,220.
 - (B) McAninch Corporation, (Douglas D. McAninch, President, WDM, Contractor) and Clarke Company, Ltd., (John J. Clarke, Partner/Owner) for construction of Storm Sewer Improvements, \$127,031.78.
 - (C) Sternquist Construction, (Britt Sternquist, President, Indianola, Contractor) and Clarke Company, Ltd., (John J. Clarke, Partner/Owner) for construction of Street Improvements, \$138,157.80.

SPECIAL ASSESSMENTS

13. Deletion of the following NAC – Emergency Order Assessments (Ownership of property has transferred):
- (A) Schedule 2003-57, Certificate 00-10702-00, 1113 Fremont St. for \$110.
 - (B) Schedule 2003-08, Certificate 00-10622-00, 2928 E. Washington Ave. for \$428.02.
 - (C) Schedule 2003-30, Certificate 00-10676-00, 2505 Logan Ave. for \$150.
 - (D) Schedule 2003-01, Certificate 00-09533-00, 1012 E. 8th Street for \$254.36.
14. Approving Division Assessment Schedule for SE 22nd Street Paving, Schedule 1991-04 for certification to Polk County.
15. Approving Delinquent Sewer Rental and/or Solid Waste Stormwater Utility fees for November 2003 for certification to Polk County.
16. Approving refund of unused special assessment default fund; Refund Schedule No. 2003-02.

17. Authorizing the Engineering Department to correct delinquent Solid Waste/Stormwater utility and/or Sewer Rental Credits for November 2003.

LAND/PROPERTY TRANSACTIONS

18. Approve and accept Real Estate Documents for permanent easement for public sidewalk at 1612 31st Street.
19. Approve and establish Fair Market Value, acquisition of property and authorize relocation for a portion of 126 Clark Street in conjunction with Clark Street Pump Station Project - \$15,100 plus closing costs.
20. Approving condemnation award for acquisition of the following properties in conjunction with the Agrimergent Technology Park Project:
 - (A) 3444 Vandalia Road, \$147,000 plus Sheriff's fees and jury expenses.
 - (B) 1804 SE 35th Street, \$18,000 plus Sheriff's fees and jury expenses.
21. Approving Tax Abatement applications for additional value added by improvements made during 2003 (180 applications on file in City Clerk's Office).

[\(Council Communication No. 03-611\)](#)

BOARDS/COMMISSIONS/NEIGHBORHOODS

22. Recommendation of At-Large Council Member, Frank Cownie to appoint Kathie Andriano-Narber to fill the unexpired term of Kristopher Klop, (Seat 5) on the Sister Cities Commission, to expire April 28, 2006.
23. Recommendation of At-Large Council Member, Frank Cownie to appoint Jill M. Fulitano-Avery to the Access Advisory Board (Seat 9) for a four year term, to expire June 15, 2006.
- 23-I. Recommendation of At-Large Council Member, Frank Cownie to appoint Jon S. Thyberg to the Licensing and Appeals Board (Seat 9) to expire April 1, 2006.
24. Communication from Beth Muenchrath advising of her resignation from the Sister Cities Commission (Seat 18) – Windsor Heights representative, effective January, 2004.

COMMUNICATIONS FROM PLANNING AND ZONING

25. Regarding request from the City Engineer and Public Works Director to permanently close Riverside Drive from Court Avenue to SW Water Street, in conjunction with the Gray's Lake Trail and Des Moines River Outfall Project.

SETTING DATE OF HEARINGS

26. On Lease Agreement with the Boys and Girls Club of Central Iowa for the use of Logan Community Center, 1740 East Garfield Avenue, (1-12-04).

[\(Council Communication No. 03-618\)](#)

27. On lease of Archie Brooks Community Center to Polk County for use by the State of Iowa Department of Human Services Site offices, (1-12-04).

[\(Council Communication No. 03-620\)](#)

28. NUMBER NOT USED.

29. NUMBER NOT USED.

30. On Council-initiated request to rezone property in the 1600 block of 6th Avenue from "C-1" (Neighborhood Retail Commercial) to Ltd "NPC" (Neighborhood Pedestrian Commercial), subject to conditions, (1-12-04).

31. On assessment of \$300 penalty to Southridge Amoco, 6300 SE 14th Street, for violation of Iowa Cigarette Laws, (1-12-04).

LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS

32. Approving payment of \$7,140.16 to Hall & Associates for services related to National Pollution Discharge Elimination System (NPDES) permit.

33. Approving payment of \$2,458.91 to Ahlers & Cooney, P.C. for services related to Supplement Nos. 11, 12 and 13 of the Master Lease Program.

34. Approving payment of \$2,706.06 to Spiegel & McDiarmid Law Firm for services in conjunction with the Riverpoint West Redevelopment, Brownfields Showcase Community.

35. Approving payment of \$1,440.65 to Nyemaster, Goode, Voigts, West, Hansell & O'Brien for representation regarding the case of Maria Garces v. Gerald Roger Lovejoy, et al.
36. Approving payment of \$6,418.75 to George Dickey for workers' compensation claim.

CITY MANAGER COMMUNICATIONS

37. Submitting traffic regulation changes for "Police Only" parking in front of 611 Forest Avenue.

[\(Council Communication No. 03-626\)](#)

38. Submitting traffic report and traffic regulation changes for Aurora Avenue between Beaver Avenue and Merle Hay Road, (Hoover High School area).

[\(Council Communication No. 03-622\)](#)

APPROVING

39. Applications for Enterprise Zone Benefits for a project in the Des Moines Gateway Enterprise Zone for the following:

- (A) Court Avenue Partners I, L.P. for construction of 51 apartment units at 310 Court Avenue.

[\(Council Communication No. 03-599\)](#)

- (B) Court Avenue Partners II, L.P. for construction of 104 apartment units at 4th Street and Court Avenue.

[\(Council Communication No. 03-602\)](#)

- (C) East Village Partners, L.L.C. for construction of 31 condominium units and 4 apartment units at East 4th and East Locust Street.

[\(Council Communication No. 03-600\)](#)

- (D) Hubbell Tower, L.P. for rehabilitation of 73 apartments at 904 Walnut Street.

[\(Council Communication No. 03-601\)](#)

40. Correction in legal description of documents relating to the Iowa State Bank Holding Company Economic Development Project at 601 East Locust.

41. Satisfaction of Agreements with Iowa Department of Transportation and Color Converting, Inc.

[\(Council Communication No. 03-610\)](#)

42. Development Agreement with Wells Fargo Financial for new office building in downtown Des Moines.

[\(Council Communication No. 03-629\)](#)

43. Receive and file request from Paul Drey on behalf of Ladco Development to consider extending provisions for tax abatement area around Mercy Hospital.

44. The King Irving Neighborhood Plan and adopting the plan as an amendment to the Des Moines 2020 Community Character Plan.

[\(Council Communication No. 03-612\)](#)

45. Agreement with Downtown Community Alliance for Enhanced Parking System Customer Services and related programs.

46. Contract negotiation with Greater Des Moines Community Foundation for administration of the Public Arts Program.

[\(Council Communication No. 03-615\)](#)

47. Report by Veenstra & Kimm, Inc. regarding combined sewer overflow long-term control strategy, in compliance with terms of National Pollutant Discharge Elimination System (NPDES) permit.

[\(Council Communication No. 03-623\)](#)

48. One year extension of contract with the Department of Navy for loan of the ship model USS Des Moines-CA134 on public display in the Great Hall of City Hall.

49. Amending ICMA-RC Money Purchase Retirement Plan.

[\(Council Communication No. 03-617\)](#)

50. Insurance Agent/Broker Services Contract with Jester Insurance Services, Inc. effective March 1, 2004.

[\(Council Communication No. 03-606\)](#)

51. Contract with Professional Account Management, LLC for collection of delinquent accounts, three-year term, with two one-year renewal options.

[\(Council Communication No. 03-605\)](#)

52. Bids for the following:

- (A) Erickson Machine Tool (Story City, IA) for an engine lathe for the Wastewater Reclamation Facility Maintenance Shop, \$34,790. (Eight bids mailed, two bids received).
- (B) Charles Gabus Ford for replacement vehicles for the Fire Department, \$88,012.56. (Ten bids mailed, three received).
- (C) Bob Brown Chevrolet, \$18,448.60 and Charles Gabus Ford, \$23,613.56 for replacement vehicles for the Public Works Department at a total cost of \$42,062.16. (Ten bids mailed, three bids received).
- (D) Charles Gabus Ford, \$30,946.24 and Mid-States Ford (Waukee), \$15,887.75 for replacement vehicles for the Park & Recreation Department at a total cost of \$46,833.99. (Ten bids mailed, four bids received).

53. Civil Service Entrance Lists for Community Action Site Supervisor, and Sewer Maintenance Worker and Promotional Lists for Sewer Maintenance Worker, Budget Analyst II and Police Sergeant.

54. Authorizing Finance Director to issue checks on the registers of December 24, 2003 and January 1 and January 8, 2004; and to draw checks for bills of the Des Moines Municipal Housing Agency for the weeks of December 22 and December 29, 2003 and January 5, 2004; and to draw checks for biweekly payroll due on December 24, 2003 and January 9, 2004.

ORDINANCES - SECOND CONSIDERATION

55. Amending Chapter 102 of the Municipal Code regarding qualifications of the Skywalk Committee.

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

ORDINANCES - FIRST CONSIDERATION

56. Amending Chapter 114 of the Municipal Code regarding traffic regulation changes as follows:
- (A) Parking Restriction Modifications – Cherry Street between 5th Avenue and 6th Avenue.
 - (B) Parking Restriction Modifications – East Jackson Avenue between SE 5th Street and SE 6th Street.
 - (C) Downtown School Loading Zone Designation.
 - (D) Parking Restriction Extension – North Side of East Grand Avenue East and West of East 22nd Street.
 - (E) Traffic Control Modifications at 28th/Cottage Grove and 28th/Kingman.
57. Amending Chapter 74 of the Municipal Code, deleting responsibility for the operation of the Botanical Center from the Park and Recreation Department.
- (A) Final consideration of ordinance above, (waiver requested by the Legal Department), requires 6 votes.

COMMUNICATIONS/REPORTS

58. From Gloria M. Richardson, 1412 – 14th Street, to speak regarding Zip-N-Food Store located at 1412 – 14th Street.
59. From James Flanagan, 4201 Kingman Blvd, requesting to speak.

HEARINGS (Opened at ____P.M.) (Items 60 thru 70)

60. On items regarding the M.L. King Parkway Project:

- (A) Hearing on the M. L. King Jr. Parkway & Fleur Drive Intersection/Bridges Combined Project; and designating lowest responsible bidder as Jensen Construction Co. and United Contractors, Inc., a joint venture, (Kurt E. Rasmussen, Owner, DM) \$28,183,498.40.

[\(Council Communication No. 03-624\)](#)

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

- (B) Hearing to REJECT bids on the M. L. King Jr. Parkway – Fleur Drive Intersection and Ramps Grading/Paving.

- (C) Hearing to REJECT all bids on the M. L. King Jr. Parkway – North /South Bridge over the Raccoon River.

- (D) Hearing to REJECT all bids on the M. L. King Jr. Parkway – East /West Signature Bridge over the Raccoon River.

- (E) Hearing to REJECT all bids on the M. L. King Jr. Parkway – East /West Bridge over the Northbound Fleur Drive Ramp.

- (F) Hearing on the Removal of Burlington Northern Santa Fe Railroad Bridge; and designating lowest responsible bidder as Jensen Construction Co. (Kurt Rasmussen, Owner, DM), \$159,410.

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

- (G) Approving Supplemental Agreement No. 22 with Earth Tech, Inc, (Diane Creel, CEO, Long Beach, CA).

[\(Council Communication No. 03-625\)](#)

61. On request from Anawim Housing to rezone property at 501-513 Forest Avenue from “C-1” (Neighborhood Retail Commercial) and “R1-60” (One Family, Low

Density Residential) to “NPC” (Neighborhood Pedestrian Commercial) and “R-2A” (General Residential) to allow for a mixed use project involving ground level retail/office and 6 upper-story apartments and 6 two-story row dwellings, and approving rezoning to “NPC” and DENYING rezoning to “R-2A”.

- (A) First consideration of ordinance rezoning the 6th Avenue frontage to Limited “NPC” District, leaving the balance of the property as presently zoned.
- (B) Final consideration of ordinance above, (waiver requested by the applicant), requires 6 votes.

62. On request from Gary VanEngelenberg, to rezone property at 3836 Beaver Avenue, from “C-0” (Commercial Residential) to Ltd. “C-2” (General Retail and Highway Oriented Commercial), to allow reuse of the existing dermatology clinic as a holistic veterinary clinic, subject to limitation.

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

63. On petition to continue and expand the Downtown Des Moines Self-Supported Municipal Improvement District, (SSMID).

[\(Council Communication No. 03-614\)](#)

64. On sale of City property at 5821 Winona Avenue to Russ Severson, \$1,000.

65. On proposed renaming of a portion of Tuttle Street and the Park Road, north of Sec Taylor Stadium as “Line Drive”.

- (A) First consideration of ordinance above.

66. On lease of parking lot on the northeast corner of E. 4th and Grand, to Nelson Development, L.L.C., for 160 parking spaces, \$4800 per month for 5 years.

[\(Council Communication No. 03-603\)](#)

67. On US 69 and County Line Road Left Turn Lanes and Traffic Signals: Resolution approving plans, specifications, form of contract documents,

Engineer's estimate, and designating lowest responsible bidder as Iowa Signal & Electric Co., (Ronald R. Johnsen, President, DM), \$209,346.85.

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

68. On 2003 Skywalk Directories and Overhead Signs: Resolution approving plans, specifications, form of contract documents, Engineer's estimate, and designating lowest responsible bidder as ASI-Modulex, (Thomas B. Latimer, President/CEO, Grinnell), \$34,325.

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

69. On City Hall Cooling Tower Replacement: Resolution approving plans, specifications, form of contract documents, Engineer's estimate, and designating lowest responsible bidder as Central Iowa Heating Co., (Larry Goode, Jr., President, DM), \$66,300.

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

70. On assessment of \$1,500 penalty and 30-day suspension of alcoholic beverage license/permit for Git-N-Go convenience Store, 4900 Urbandale Avenue.

END HEARINGS AT _____ P.M.

APPROVING

71. Diminution of positions at the following:

(A) Des Moines Botanical Center.

[\(Council Communication No. 03-613\)](#)

(B) Community Development Department site offices.

[\(Council Communication No. 03-607\)](#)

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. Approving City of Des Moines Comprehensive Annual Financial Report for the fiscal year ended June 30, 2003.

BOARD OF HEALTH

MOTION TO CONVENE

AUTHORIZING

2. Court authority to abate the public nuisance at the following locations:
 - (A) 1315 Lewis Avenue (vacant), Titleholders: Kathryn Marasco and Michael A. Marasco; Contract Buyers: Craig Rummelhart, James J. Ellis and Janice Ellis; Mortgage Holder: State Federal Savings & Loan Association of Des Moines.
 - (B) 804 E. Madison Avenue (vacant), Titleholders: Alvino Andrighetti and Rosie Connolly
 - (C) 2051 Maple Avenue (vacant), Titleholders: Bonnie Maier and Steven Maier.
 - (D) 1367 Porter Avenue (vacant), Titleholders: Robert Romine and Christine Romine; Mortgage Holders: Green Tree Servicing LLC f/k/a Conseco Finance Serving Corporation and Peoples Finance Company.
 - (E) 2420 Tomlin (vacant), Titleholder: Todd R. Mueller; Mortgage Holder: Bank of American.
 - (F) 1328 21st Street, (vacant), Titleholders: Steven C. Christensen and Fawnie Christensen.
3. The Engineering Department to remove the following structures:
 - (A) 1716 Franklin Avenue, Titleholder: Bert Y. Kelly Estate.
 - (B) 1513 E. Park Avenue, Titleholder: Ironwood Funding; Legal Interest Holder: Christine Frank d/b/a Tax 254.
 - (C) 1045 19th Street, Titleholder: Billie Barker.

MOTION TO ADJOURN AT _____ P.M.

All-America City
1949 1976 1981 2003