DESMOINES 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.

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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 Liquor
(D) DES MOINES VALERO #202 821 E EUCLID AVE  C Beer
(E) EL CENTROAMERICANO 2811 SE 14TH ST  C Liquor
(F) GORDITAS SAN PANCHO 2250 HUBBELL AVE  C Liquor
(G) WASABI CHI ASIAN DINER 5418 DOUGLAS AVE  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 Category 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 Category 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 Category B Beer License for annual Tai Festival on September 3 – 4, 2011. Pending approval of Building and Fire Departments.
5. **Amending** 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. **Approving** 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. **Approving** 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. **Approving** Change Order No. 2 with Corell Contractor, Inc. and subsidiary for additional work on the Southeast Connector Paving – SW 2nd Street to SE 6th Street for a total not to exceed $26,270.37.

    *(Council Communication No. 11-542)*

11. **Communication** from contractors requesting permission to sublet certain items on public improvement projects.

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

    (A) **Demolition** at Southern Meadows Apartments, 2800 SE 8th 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. **Authorization** 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. **Establishing** fair market value of property in the vicinity of 1610 Scott Avenue for SE Connector Project – SE 14th to SE 30th 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. **Approving** final Subdivision Plat entitled Brownstones On Grand, Plat 3 located at 201 Grand Avenue.

   (Council Communication No. 11-537)

BOARDS/COMMISSIONS/NEIGHBORHOODS

19. **Communication** 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 8th 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 14th 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 6th 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. **Approving** payment of $515.71 to Peddicord, Wharton, Spencer and Hook, LLP for representation of Officer Mersed Dautovic.

26. **Approving** 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. **Approving** 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. **Submitting** 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. **Submittal** 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. **Revised** Attachment A of the Neighborhood Stabilization Program Contract with the Iowa Department of Economic Development.

   (Council Communication No. 11-568)


   (Council Communication No. 11-569)

   (A) **Sponsorship** of Tax Credit Application for renovation of 424 E. Locust Street

34. **Preliminary** terms of agreement for Economic Development Forgivable Loan to Life Care Services, LLC.

   (Council Communication No. 11-571)

35. Number Not Used.

36. **Changes** to exterior color scheme at Embassy Suites Hotel.

   (Council Communication No. 11-554)

37. **Submittal** 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)


   (Council Communication No. 11-563)

40. **Second** 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. Grant agreement with Iowa Department of Transportation for capital improvements at the Des Moines International Airport, $562,349.

   (Council Communication No. 11-566)

42. Communication 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.


44. Agreement 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) Hewlett 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) Communication 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) UltraMax Ammunition (Roger Braunstein, Owner) for ammunition to be used by the Police Department, $191,290.70. (Thirteen bids mailed, five received).

46. Civil Service Entrance Lists for Neighborhood Inspections Supervisor and Assistant Operator.

47. Authorizing 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


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

ORDINANCES - FIRST CONSIDERATION

49. **Amending** 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. **Amending** 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 28th Street.

   (B) Prohibit parking on Sundays – SW 9th 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 42nd 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. **Amending** Chapter 90 of the Municipal Code establishing a Housing Services Board as a successor commission to the Public Housing Board.

(A) **Amending** 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) **Taxpayer** 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\textsuperscript{th} Street, regarding recommended denial of a Taxicab License.

58. **On** appeal from Marnie Strate, 940 35\textsuperscript{th} 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) **Final** 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) **Final** 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. 12th Street to Des Moines Independent Community School District.

   (A) **First** consideration of ordinance above.

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

65. Items regarding property at 201 SE 29th Court, Howard Tully, (Owner):

   (A) **To** amend the Des Moines 2020 Community Character Land Use Plan future land use designation from General Industrial to Low-Density Residential.

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

(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.

(Council Communication No. 11-557)

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

***END HEARINGS AT ____________ PM ***

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) Approving second amendment to 28E Agreement with Chinese Cultural Center of America.

(C) Approving agreement with Des Moines River Front Development Authority for maintenance and repairs.

(Council Communication No. 11-581)
74. **Preliminary** 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. **Recommendation** regarding creation of an urban renewal area and tax increment district for the Ingersoll Avenue Commercial Area.

   (Council Communication No. 11-567)

76. **Authorizing** 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. **License** 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) **Authorization** to proceed with a high priority sidewalk project on E. Park Avenue from SE 14th Street to SE 18th Court.

   (B) **Authorization** to proceed with an assessed sidewalk project on E. Sheridan Avenue, E. 27th 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. **Supporting** 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)

   (Council Communication No. 11-570)

3. Approving sponsorship of Grayfield Tax Credit applications for renovation of the following: Sponsor: Council Member Hensley.

   (A) Des Moines Building at 405 6th 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) Discuss audit requirements and definition regarding compliance with City regulations.

   (B) Update 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


   (B) 2315 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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