

SUMMARY OF DES MOINES CITY COUNCIL MEETING

February 3, 1997 4:30 P.M.

CLOSED SESSION--3:30 P.M.

97-348 1. ROLL CALL: **Present: Davis, Hensley, McPherson, Phillips and Vlassis. (Council Member Flagg entered the meeting at 3:38 and Council Member Daniels entered at 4:15)**

*** * * * * *CLOSED SESSION* * * * * * * * * * ***

97-349 (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. **Moved by Vlassis to adopt. Motion Carried 5-2. Absent: Daniels and Flagg.**

97-350 (b) Closed Session to discuss matters of pending litigation.

97-351 (c) Terminate this closed session and reconvene in open session. **Moved by Vlassis to adopt. Motion Carried 6-1. Absent: Daniels.**

97-352 (d) Approving recommendation made in closed session, and Corporation Counsel is directed to proceed pursuant to that recommendation. **Moved by McPherson to adopt. Motion Carried 6-1. Absent: Daniels.**

97-353 (e) Motion to recess until 4:30 P.M. **Moved by Vlassis to adopt. Motion Carried 7-0.**

INVOCATION: Pastor Greg Krumbach

Galilee Baptist Church

97-354 2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED: **Moved by Hensley to adopt. Motion Carried 7-0.**

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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.**

97-355 3. APPROVING CONSENT AGENDA - items 3 through 50: **Moved by Vlassis to adopt the balance of the Consent Agenda. Motion Carried 7-0.**

LICENSES AND PERMITS:

Approving

97-356 4. Communication from Legal Department regarding February 3, 1997 License and Permit Agenda. **Moved by Vlassis to receive and file. Motion Carried 7-0.**

97-356 Class "B" Beer Licenses

97-357 5. S.A.O.C.C., Inc., Calvin G. Campbell, President dba The Depot, Iowa State Fairgrounds - Cattle Barn - South Annex, 3000 Grand Avenue; New Application for 14 Day License February 8 - 16, 1997 (With Sunday Sales) - Application submitted 1-20-97. **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-358 6. Eugene Hiskey dba Rainbow Cleaning Machine, 4347 Merle Hay Road; Renewal - Expires 2-15-97 (With Sunday Sales) - Application submitted 1-8-97. **Moved by Vlassis to adopt. Motion Carried 7-0.**

Class "C" Beer Licenses

97-359 7. G L & J, Inc., Gary Kudrna, President dba Gary's Amoco #42, 4131 University; Renewal - Expires 2-14-97 (With Sunday Sales) - Application submitted 1-21-97. **Moved by Vlassis to adopt. Motion Carried 7-0.**

Class "C" Beer-Wine Licenses

97-360 8. Advanced Food Management Association, Inc., Ken Yunkil Chung, President dba Chung's, 901 East Euclid; Renewal - Expires 2-6-97 (With Sunday Sales) - Application submitted 1-7-97. **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-361 9. Patrick O. Renda dba Orlando's, 3835 University; Renewal - Expires 2-16-97 (With Sunday Sales) - Application submitted 1-17-97. **Moved by Vlassis to adopt. Motion Carried 7-0.**

Class "C" Liquor Licenses

97-362 10. Hy-Vee, Inc., Ronald Pearson, President dba Des Moines Botanical Center, 909 East River Drive; New Application (With Sunday Sales) **Moved by Vlassis to adopt. Motion Carried 6-1. Nays: Daniels.**

97-363 11. Cooney Beverage Company, Inc., Brian J. Cooney, President dba Cooney's, 3719 Beaver Avenue; Renewal - Expires 2-12-97 (With Sunday Sales) - Application submitted 1-8-97. **Moved by Vlassis to adopt. Motion Carried 6-1. Nays: Daniels.**

97-364 12. Guanaguato, Inc., Juan Ayala, President dba El Aguila Real Mexican Restaurant, 3600 Beaver Avenue; Renewal - Expires 2-19-96 (With Sunday Sales) - Application submitted 1-15-97. **Moved by Vlassis to adopt. Motion Carried 6-1. Nays: Daniels.**

97-365 13. Faces, Ltd., Craig L. Conkling, President dba Faces, 416 East Walnut; Renewal - Expires 2-19-97 (With Sunday Sales) - Application submitted 1-7-97. **Moved by Vlassis to adopt. Motion Carried 6-1. Nays: Daniels.**

97-366 14. Lee Dynasty Corporation, Hsi Cheng Lee, President dba Yee Ho Garden, 520 Army Post Road; Renewal - Expires 2-8-97 (With Sunday Sales) - Application submitted 1-3-97. **Moved by Vlassis to adopt. Motion Carried 6-1. Nays: Daniels.**

Authorizing

97-367 15. City Clerk to issue Cigarette Licenses. **Moved by Vlassis to adopt. Motion Carried 6-1. Nays: Daniels.**

97-368 16. City Clerk to issue Coin-Operated Amusement Machines Licenses. **Moved by Vlassis to adopt. Motion Carried 7-0.**

PUBLIC IMPROVEMENTS

17. Resolution Ordering Construction of the following:

97-369 (A) Waveland Golf Course Storm Sewer Repair, Receiving of Bids, (02-11-97), and Setting Date of Hearing, (02-17-97), (Construction Estimate - \$36,000). **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-370 (B) Community Centers Accessibility Program, Receiving of Bids, (02-18-97), and Setting Date of Hearing, (02-24-97), (Construction Estimate - \$45,000). **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-371 17. (C) Botanical Center Greenhouse Roof Replacement, Receiving of Bids, (02-18-97), and Setting Date of Hearing, (02-24-97), (Construction Estimate - \$62,000). **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-372 (D) East-Side Traffic Signal Upgrading Project, (IDOT), Receiving of Bids, (02-18-97), and Setting Date of Hearing, (02-24-97), (Construction Estimate - \$210,000). **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-373 18. Approving Change Order No. 6 (Final) with Van Hauen & Associates, Inc. for Southwest Outfall Relief Sewer, Phase 12, Segment 2 - \$27,494 - 1996-97 Capital Improvements Program. (Council Communication No. 97-057). **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-374 19. Authorizing City Manager to acquire necessary right-of-way and easements for SW 3rd Street and Rose Avenue Storm Sewer and Easter Lake Trash Rack on Yeader Creek - 1996-97 Capital Improvements Program. (Council Communication No. 97-058). **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-375 20. Approving contract and bond for E. Euclid Avenue and Delaware Avenue Intersection Reconstruction, (IDOT Project), United Contractor's Inc., (Eric Stroud, Vice President, Johnston), \$3,738,570.35. **Moved by Vlassis to adopt. Motion Carried 7-0.**

21. Approving completion and recommending acceptance of improvements for Boulder Avenue north of Park Avenue and west of SW 30th Street, known as Rhett Hills between The Underground Company., Ltd., Contractors, and Southern Hills, Ltd., Owners, for the following:

97-376 (A) Sanitary Sewer. **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-377 (B) Storm Sewer. **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-378 22. Authorizing City Manager to acquire necessary right-of-way and easements for property located at 2201 E. Grand Avenue and other minor strip acquisitions for construction of paving on E. 22nd Street from Dean Avenue to Maple Street - 1995 Paving Program No. 1. **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-379 23. Approving partial payment on the Archie Brooks Community Center Gymnasium Expansion Project to Venter Spooner, Inc., Contractor. **Moved by Vlassis to adopt. Motion Carried 7-0.**

LAND/PROPERTY TRANSACTIONS

97-380 24. Approving Noise and Avigation Easements for four properties, in conjunction with the Airport Noise Compatibility Program, Phase II. **Moved by Vlassis to adopt. Motion Carried 7-0.**

BOARDS/COMMISSIONS/NEIGHBORHOODS

97-381 25. Approving extension of boundaries for the Highland Park Neighborhood Association, to include the area annexed by the City, north of Aurora, west of E. 14th, and south of I-80, (corrects Roll Call 97-216). **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-382 26. Nomination recommendation of Council Member Mike McPherson, Ward II for reappointment of Ms. Reita Dumas to the Des Moines Traffic Safety Committee for a three-year term commencing in 1996, to expire December 31, 1999. **Moved by Vlassis to adopt. Motion Carried 7-0.**

SETTING DATE OF HEARINGS

97-383 27. On amending the Zoning Ordinance and Site Plan Ordinance regulations regarding new "Pedestrian Commercial District" with changes to the Off-Street Parking Area Required - Special Provisions Section, (2-24-97). **Moved by Hensley to adopt. Motion Carried 7-0.**

97-384 28. On application from Randy Walters, Excalibur Development, to rezone property in

the 7400 block of Indianola Avenue from "R1-80" (One Family Residential) to a PUD (Planned Unit Development) to approve the Conceptual Plan - The Meadow Lands, to provide 360 apartments, 101 townhouses, and 108 condominiums, approval of request for tax abatement, approval of request to amend the Des Moines 2000 Land Use Plan by revising the classification from Medium Density Residential to Commercial, (2-24-97). **Moved by Vlassis to adopt. Motion Carried 6-0. Mayor Davis declares a conflict of interest, and abstains from voting.**

97-385 29. On application from James Conlin of The Phoenix Group, Ltd. to rezone property in the vicinity of 1514 Evergreen Avenue, from "C-4" (Shopping Center Commercial District) to a "P.U.D." (Planned Unit Development District) and to approve Conceptual Plan Southbrook Green II, to provide two 18-plex dwelling unit buildings, and to find this in conformance with the Des Moines 2000 Land Use Plan, (2-24-97). **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-386 30. On application from Ronald L. Woods, Easter Lake Estates, Inc., to rezone property in the 800 block of E. County Line Road from "R-3" (Multi-Family Residential) to an "R-5" (Mobile Home Residential) and to approve preliminary plan-Southridge Estates Mobile Home Park, to provide 102 mobile home lots, and to find this in conformance with the Des Moines 2000 land Use Plan, (2-24-97). **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-387 31. On application from William C. Knapp, Knapp Properties, to rezone property at 3615 SW 63rd, 6101 and 6001 Watrous, and 3500 SW 56th Street, from "R-2" (One and Two Family Residential) and "PBP" (Planned Business Park), and "M-3" (Limited Industrial District) to a PUD, and to approve the Conceptual Plan - Airport Commerce Park West, and to find this in conformance with the Des Moines 2000 Land Use Plan, (2-17-97). **Moved by Vlassis to adopt. Motion Carried 6-0. Mayor Davis declares a conflict of interest, and abstains from voting.**

97-388 32. On request from William Flannery, Aviation Department, to rezone property in vicinity of Stanton Avenue to McKinley and between SW 34th and SW 32nd Street, from an "R1-80" (One Family Residential), to an "M-3" (Limited Industrial) and to find this in conformance with the Des Moines 2000 Land Use Plan, (2-17-97). **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-389 33. On Amendment to the Annual Budget for Current Fiscal Year ending June 30, 1997, (3-3-97). **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-390 (A) On proposed Annual Budget for Fiscal Year ending June 30, 1998, (3-3-97). **Moved by Vlassis to adopt. Motion Carried 7-0.**

LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS

97-391 34. Approving payment of \$3,309.17 to Kenneth A. Johnsen for representation of Officer Richard Wallace in case of Taylor, et al. v. Craig, et al., 4-95-CV-80538. **Moved by Vlassis to approve payment. Motion Carried 7-0.**

97-392 35. Approving payment of \$368.96 to Davis, Brown, Koehn, Shors & Roberts, P.C. for

representation of Officer Camden Moran in case of Price, et al. v. Moran, et al., 4-96-CV-80860. **Moved by Vlassis to approve payment. Motion Carried 6-0. Mayor Davis declares a conflict of interest, and abstains from voting.**

CITY MANAGER COMMUNICATIONS

97-393 36. Submitting traffic regulation change for corner clearance on the East Side of E. 26th south of E. Madison. (Council Communication No. 97-055). **Moved by Vlassis to receive, file and refer to Legal Department for preparation of proper legislation. Motion Carried 7-0.**

97-394 37. Submitting out-of-state travel request for Larry Smith. (Council Communication No. 97-056). **Moved by Vlassis to adopt. Motion Carried 7-0.**

APPROVING

97-395 38. Funding Trust Agreement, with Norwest Bank Iowa, N.A., for management and maintenance of the escrow account, established in conjunction with Funded Bonds, to defease General Obligation Bonds associated with Convention Center and Veterans Auditorium. (Council Communication No. 97-064). **Moved by Vlassis to adopt. Motion Carried 6-0. Mayor Davis declares a conflict of interest, and abstains from voting.**

97-396 39. City Manager's Monthly Financial Report for December, 1996, (on file in City Clerk's Office). **Moved by Vlassis to receive and file. Motion Carried 7-0.**

97-397 40. Communication from City Clerk, submitting report on City Council meeting/meal expenses for January, 1997. **Moved by Vlassis to receive and file. Motion Carried 7-0.**

41. Bids for the following:

97-398 (A) Central States Airgas, (1610 E. Madison Avenue, Jeff Allen, President) for an annual contract for rainsuits to be used by the Public Works Department. (See roll call for price breakdowns). (Ten bids mailed-five received). **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-399 (B) Cooper Energy Services, (Mount Vernon, Ohio) for overhaul services on three (3) Superior engine/generators to be used by the Engineering Department (Wastewater Reclamation Facility), \$150,000, (Non-competitive procurement). (Council Communication No. 97-062). **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-400 42. Authorizing Finance Director to draw warrants on registers of February 7, 1997 and February 14, 1997, and the bills of the Des Moines Municipal Housing Agency for weeks beginning February 3, 1997 and February 10, 1997, and the biweekly payroll due employees on February 14, 1997. **Moved by Vlassis to adopt. Motion Carried 7-0.**

ORDINANCES - FINAL CONSIDERATION

97-401 43. Amending Chapter 15 of the Municipal Code regarding fees and charges for the Simon Estes Riverfront Amphitheater. **Moved by Vlassis that this ordinance do now pass, #13,422. Motion Carried 7-0.**

97-402 44. Amending Chapter 2 of the Municipal Code regarding powers and duties of the City Manager - right of entry and access agreements. **Moved by Vlassis that this ordinance do now pass, #13,423. Motion Carried 7-0.**

97-403 45. On rezoning of property at 4506 SW Ninth Street, from "C-1" (Neighborhood Retail Commercial), to a "C-1A" (Neighborhood Commercial Reuse District), subject to certain conditions. **Moved by Vlassis that this ordinance do now pass, #13,424. Motion Carried 7-0.**

97-404 46. Amending Chapter 27 of the Municipal Code regarding traffic regulation changes for the following: Additional handicapped meters adjacent to Neodata, 111-10th; extend snow ordinance on Dean Avenue to the East City Limits; parking restriction on Fifth Avenue near Forest Avenue; and request for No Stopping or Standing and No Parking Anytime on E. 12th Street near DM General Hospital. **Moved by Vlassis that this ordinance do now pass, #13,425. Motion Carried 7-0.**

97-405 47. Amending Chapter 21 of the Municipal Code regarding various definitions contained in the stormwater management utility ordinance. **Moved by Vlassis that this ordinance do now pass, #13,426. Motion Carried 7-0.**

97-406 48. On rezoning of property at 6000 SE 14th Street from "R-2" (One and Two Family Residential) to "C-2" (General Retail and Highway Oriented Commercial). **Moved by Vlassis that this ordinance do now pass, #13,427. Motion Carried 7-0.**

97-407 49. On vacation of public right-of-way in the vicinity of 700 S.E. Seventh. **Moved by Vlassis that this ordinance do now pass, #13,428. Motion Carried 7-0.**

97-408 50. On vacation of a portion of the Delaware Avenue right-of-way north of Euclid Avenue. **Moved by Vlassis that this ordinance do now pass, #13,429. Motion Carried 7-0.**

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

ORDINANCES - FIRST CONSIDERATION

97-409 51. Amending Chapter 15 of the Municipal Code to eliminate softball complex assessment fees for the Park and Recreation Department, until construction begins. (Council Communication No. 97-059). **Moved by McPherson that this ordinance be considered and given first vote for passage. Motion Carried 7-0.**

97-410 (A) Final consideration of ordinance above, (waiver requested by Parks and Recreation Department), requires 6 votes. **Moved by McPherson that the rule requiring that ordinances**

must be considered, and voted on for passage at two council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, #13,430. Motion Carried 7-0.

97-411 52. Amending Section 2-48.08, 2-100.01, 2-299.01 and 18-2.01 of the Municipal Code regarding conflict of interest. (Council Communication No. 97-066). **Moved by Vlassis that this ordinance be considered and given first vote for passage. Motion Carried 7-0.**

INFORMAL HEARINGS (Opened at 4:50 P.M.) (Item 53)

97-412 53. To receive Citizen input regarding 1997/98 Capital Improvements Program (CIP) and Operating Budgets. **Moved by Vlassis to adopt and refer to City Manager. Motion Carried 7-0.**

* * END INFORMAL HEARINGS at 4:52 P.M. * *

APPROVING

97-413 54. Accepting donation of a Sunshine Coach Van for use at the Zoo, from the Variety Club of Iowa. (Council Communication No. 97-060). **Moved by Vlassis to adopt with appreciation. Motion Carried 7-0.**

97-414 55. Documents regarding \$200,000 Community Economic Betterment

WITHDRAWN Account (CEBA) Loan, and \$200,000 Des Moines Action Loan, to Flynn Enterprises, Inc. (f/k/a EMCO Industries), 220 New York Avenue. (Council Communication No. 97-061).

97-415 56. Economic Development Administration Architect/Engineer's Certificate of Approval and Recommendation of Acceptance, in conjunction with close out of new Stormwater Pump Stations Project. (Council Communication No. 97-063). **Moved by Vlassis to adopt. Motion Carried 7-0.**

97-416 57. Revision of job specifications for Accounting Section Chief, to update duties, knowledge, skills and abilities, and to comply with ADA, (SPM Range 19). **Moved by Hensley to adopt. Motion Carried 7-0.**

COUNCIL REQUESTS

97-417 58. Request of Council Member at Large George Flagg, to discuss City Council Sub-Committees. **Moved by Vlassis to receive, file, discuss and direct responses to City Clerk to compile an overall summary for Council review and consideration. Motion Carried 7-0.**

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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.

97-418 1. Setting Date of Hearing on conveyance of City right-of-way in vicinity of SW 63rd and Grand, (Highway 28), to the State of Iowa, in conjunction with the widening of SW 63rd Street, (2-17-97) SPONSOR: Hensley. **Moved by Hensley to adopt. Motion Carried 7-0.**

97-419 2. Legislative Update for 76th Iowa General Assembly. **Moved by McPherson to receive and file the attached report. Motion Carried 7-0.**

97-420 3. Approving Gameroom License for F & P Pool Hall, 1552 E. Grand, (Foy Phakaylathovong). SPONSOR Phillips. **Moved by Vlassis to adopt. Motion Carried 7-0.**

A G E N D A

BOARD OF HEALTH

February 3, 1997

97-421 MOTION TO CONVENE. **Moved by Vlassis that the City Council Adjourn and Convene as a Board of Health. Motion Carried 7-0.**

AUTHORIZING

97-422 1. Court authority to abate the public nuisance at 1431 21st St., vacant, TITLEHOLDER(S)/HEIRS: Kenneth DeBoom, Co-Executor of the Clarence DeBoom Estate, Beverly Miller, Co-Executor of the Clarence DeBoom Estate, Dolores Ness, Co-Executor of the Clarence DeBoom Estate, as heirs of Clarence DeBoom: LEGAL INTEREST HOLDER: Ace Plumbing, Attn: Mike Beeler, President. **Moved by McPherson to adopt. Motion Carried 7-0.**

97-423 MOTION TO ADJOURN. Moved by Phillips to adjourn at 4:58 P.M.

NEXT REGULAR COUNCIL MEETING--FEBRUARY 17