The City Council took the following action on items listed in the attached meeting agenda summary. Copies of ordinances, resolutions and other Council action may be obtained from the City Clerk's Office (515) 283-4209. The six-digit number beginning with '10-' preceding each item on the agenda is a roll call number assigned by the City Clerk. Please refer to this number when requesting information or copies.

SUMMARY OF DES MOINES CITY COUNCIL MEETING

February 22, 2010 4:30 PM

PROCLAMATION - 4:15 PM

In Honor of John Ruan

SPECIAL PRESENTATIONS

Check presentation from Polk County and Prairie Meadows

INVOCATION: Council Member Chris Coleman

10-241 1. ROLL CALL: Present: Cownie, Coleman, Griess, Hensley, Mahaffey, Meyer and Moore.

10-242 2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED: Moved by Hensley to adopt. Motion Carried 7-0.

10-243 3. APPROVING CONSENT AGENDA * – items 3 through 41: Moved by Hensley to adopt the balance of the Consent Agenda. Motion Carried 7-0.

*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.
4. Approving Alcoholic Beverage License Applications for the following: Moved by Hensley to adopt. Motion Carried 7-0.

NEW APPLICATIONS

(A) BABY BOOMERS  303 E 5TH ST  C Beer/Wine
(B) COAKLEY'S TAP  1500 SE 1ST ST  C Liquor
(C) H & A MINI MART  5901 FLEUR DR  E Liquor
(D) KELLY'S  1701 E GRAND AVE  C Liquor
(E) ROHRYS  2309 FOREST AVE  C Liquor

RENEWAL APPLICATIONS

(F) CENTERPLATE  1 LINE DR  C Liquor
(G) CENTRAL CITY LIQUOR  1460 2ND AVE  E Liquor
(H) GIT N GO STORE #10  816 E EUCLID AVE  C Beer
(I) GIT N GO STORE #28  3274 E UNIVERSITY  C Beer
(J) HAWKEYE PANTRY  501 LOCUST ST  E Liquor
(K) HOTEL FORT DES MOINES  1000 WALNUT ST  B Liquor
(L) HY VEE FOOD STORE #1  3330 MLK JR PKWY  C Beer
(M) INGERSOLL LIQUOR  3500 INGERSOLL AVE  E Liquor
(N) J BENJAMINS  5800 FRANKLIN AVE  C Liquor
(O) LINNS SUPER MARKET  3805 6TH AVE  C Beer
(P) RACCOON RIVER BREWING  200 10TH ST  C Liquor
(Q) SCORNOVACCAS PIZZA  3900 E 14TH ST  B Beer
(R) THAI FLAVORS  1254 E 14TH ST  C Beer/Wine

5. Approving New Class B Native Wine Permit for Tobacco Outlet Plus #521, 3301 E. Euclid Avenue. Pending approval of Vice, Building, Electrical, Fire and Zoning Departments. Moved by Hensley to adopt. Motion Carried 7-0.

6. City Clerk to issue Coin Operated Machine Licenses. Moved by Hensley to adopt. Motion Carried 7-0.

PUBLIC IMPROVEMENTS

7. Ordering construction of the following:

(A) Harriet Street Boat Ramp Repair: Receiving of bids, (3-9-10), and Setting date of hearing, (3-22-10). (Construction Estimate - $93,300). (Council Communication No. 10-109) Moved by Hensley to adopt. Motion Carried 7-0.

(B) 2010 Midblock School Signal Upgrade: Receiving of bids, (3-9-10), and Setting date of hearing, (3-22-10). (Construction Estimate - $35,000). (Council Communication No. 10-100) Moved by Hensley to adopt. Motion Carried 7-0.
8. **Approving** Change Order No. 7 with The Truesdell Corporation of Wisconsin, Inc. for additional work on the Fleur Bridge over Raccoon River Rehabilitation, not to exceed $65,671.94.  (Council Communication No. 10-098) Moved by Hensley to adopt. Motion Carried 7-0.

9. **Approving** Compensation Agreement with Des Moines Water Works (DMWW) for relocation of water utility facilities in conjunction with the Des Moines and Raccoon Rivers – Birdland Levee Project, $363,715.  (Council Communication No. 10-090) Moved by Hensley to adopt. Motion Carried 7-0.

10. **Approving** and authorizing the execution of Union Pacific Railroad Company Street Crossing Signal Safety Improvement Agreement for E. Market Street, $180,000.  (Council Communication No. 10-099) Moved by Hensley to adopt. Motion Carried 7-0.

11. **Approving** completion and acceptance of the Private Construction Contract for Building Improvements, 100 45th Street between Bakers Group and The Academy.  Moved by Hensley to adopt. Motion Carried 7-0.

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

10-253  
(A) **Western** Waterproofing Co., Inc. – 5th & Keo Parking Garage Rehabilitation – Phase 2.  Moved by Hensley to adopt. Motion Carried 7-0.

10-254  
(B) **The** Truesdell Corporation of Wisconsin, Inc. – Fleur Drive Bridge over the Raccoon River Rehabilitation.  Moved by Hensley to adopt. Motion Carried 7-0.

10-255  
(C) **Van** Hauen & Associates, Inc. – Market Street Sanitary Sewer Relocation.  Moved by Hensley to adopt. Motion Carried 7-0.

**SPECIAL ASSESSMENTS**

13. **Levying** assessments for costs of Nuisance Abatement – NAC Emergency Orders (Community Development) Schedule No. 2010-03.  Moved by Hensley to adopt. Motion Carried 7-0.

14. **Levying** assessments for fees, fines, penalties, costs and interest imposed in the enforcement of the Neighborhood Inspection Rental Code Schedule No. 2010-01.  Moved by Hensley to adopt. Motion Carried 7-0.

15. **Approving** deletion of NAC-Emergency Assessment at various locations.  Moved by Hensley to adopt. Motion Carried 7-0.

16. **Approving** deletion of NAC-Emergency Assessment at 2227 E. 29th Street.  Moved by Hensley to adopt. Motion Carried 7-0.
LAND/PROPERTY TRANSACTIONS

10-260  17. Partial Release of PUD Restoration Bond IAC-87624 ($248,782) from Eco-Tech Construction, LLC and Merchants Bonding Company for partial completion of grading and site restoration and acceptance of replacement bond in the amount of $20,000 for The Woods at Copper Creek in the vicinity of 4680 NE 23rd Avenue for the remaining amount of restoration work. (Council Communication No. 10-076) Moved by Hensley to adopt. Motion Carried 7-0.

10-261  18. Approving Partial Release of Permanent Conservation Easement Agreement with Sawyer’s Landing, LLC on Lot 67 of Sawyers Landing Plat 2. (Council Communication No. 10-084) Moved by Hensley to adopt. Motion Carried 7-0.

10-262  19. Approving tax abatement applications for the additional value added by improvements completed during 2009 (141 applications). (Council Communication No. 10-086) Moved by Hensley to adopt. Motion Carried 7-0.

10-263  20. Approving late-filed tax abatement application for improvements completed in 2005 (1920 E. 39th Street). (Council Communication No. 10-079) Moved by Hensley to adopt. Motion Carried 7-0.

BOARDS/COMMISSIONS/NEIGHBORHOODS

21. Recommendations from Council Member Halley Griess to appoint the following:

10-264  (A) Joel Huston to the Plan and Zoning Commission, Seat 8, for a five-year term to expire July 1, 2010 and an additional five-year term expiring July 1, 2015. Moved by Hensley to adopt. Motion Carried 7-0.

10-265  (B) Christine Pardee to the Sister Cities Commission, Seat 9, for a five-year term commencing April 28, 2007 to expire April 28, 2012. Moved by Hensley to adopt. Motion Carried 7-0.

SETTING DATE OF HEARINGS

10-266  22. On approval of 2009 HUD Consolidated Annual Performance and Evaluation Report (CAPER), (3-22-10). Moved by Hensley to adopt. Motion Carried 7-0.

10-267  23. On appeal from City Engineer for approval of site plan for an off-street parking lot for the Armory Building in the 700 block of Robert D. Ray Dr., (3-8-10). Moved by Hensley to adopt. Motion Carried 7-0.
LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS

10-268 24. Approving payment of $829 to Peddicord, Wharton, Spencer and Hook LLP for representation of Officer Mersed Dautovic. Moved by Hensley to adopt. Motion Carried 7-0.

10-269 25. Approving payment of $5,264.53 to Hopkins Law Office, PLC for representation of Officer John LePorte. Moved by Hensley to adopt. Motion Carried 7-0.

10-270 26. Approving payment of $24,884.24 to Belin McCormick Law Firm for services in connection with Kragnes v. City of Des Moines, IA. Moved by Hensley to adopt. Motion Carried 7-0.

10-271 27. Approving payment of $122,677.95 to Randy Banks and his attorney for a workers’ compensation claim. Moved by Hensley to adopt. Motion Carried 7-0.

10-272 28. Approving payment of $10,000 to Vernon and Christine McClain for claim as the result of an auto accident. Moved by Hensley to adopt. Motion Carried 7-0.

CITY MANAGER COMMUNICATIONS

10-273 29. Regarding operational emergency purchases made for snow and ice control supplies for use by the Public Works Department, $187,175. (Hutchinson Salt Co. for $158,175 and Jerico Services for $29,000) (Council Communication No. 10-093) Moved by Hensley to adopt. Motion Carried 7-0.

APPROVING

10-274 30. Fiscal Year 2007 Continuum of Care (COC) Closeout Certification Documents. Moved by Hensley to adopt. Motion Carried 7-0.

31. Applications for Enterprise Zone Benefits on the following housing projects: (Council Communication No. 10-091)

10-275  (A) Common Bond Communities: Rehabilitation of 60 apartment units at 1401 Capitol Avenue and 1415 Des Moines Street in the SE Agri Business Enterprise Zone. Moved by Hensley to adopt. Motion Carried 7-0.

10-276  (B) South View Senior Apartments: Construction of 40 apartment units at 1900 SE 6th Street in the River South Enterprise Zone. Moved by Hensley to adopt. Motion Carried 7-0.

10-277  (C) Brownstones on Grand: Construction of 16 townhome units at 3rd Street and Watson Powell Drive in the Gateway Enterprise Zone. Moved by Hensley to adopt. Motion Carried 7-0.
32. **Budget** for Downtown Self-Supported Municipal Improvement District (SSMID) for Fiscal Year ending June 30, 2011.  (Council Communication No. 10-078) Moved by Moore to adopt, and to monitor the use of tree replacement funds.  Motion Carried 7-0.

33. **Letter** of support for King Irving and Mondamin Presidential Neighborhoods’ grant application to KaBoom! for playground equipment and surface in Edna Griffin Park, 1614 13th Street.  (Council Communication No. 10-096) Moved by Hensley to adopt.  Motion Carried 7-0.

34. **Applications** for funding of 5 projects, 2 for the City totaling $175,000, from the Iowa Office of Energy Independence (OEI) as part of the Energy Efficiency and Conservation Block Grant Program (EECBG).  (Council Communication No. 10-085) Moved by Hensley to adopt.  Motion Carried 7-0.

35. **Governor’s** Traffic Safety Bureau (GTSB) Section 410 Grant application for October 1, 2010 to September 30, 2011 for overtime, traffic safety and alcohol-impaired testing equipment, $196,450.  (Council Communication No. 10-105) Moved by Hensley to approve.  Motion Carried 7-0.

36. **Issuance** of Certificate of Completion to Village Place, LLC for The Village Place Development in the block bounded by E. Locust, E. Walnut, E. 5th and E. 6th Streets.  (Council Communication No. 10-077) Moved by Hensley to adopt.  Motion Carried 7-0.

37. **Temporary** amendment to Cooperative Agreement with the Iowa Civil Rights Commission to increase compensation to the Des Moines Human Rights Commission for case closures.  (Council Communication No. 10-095) Moved by Hensley to adopt.  Motion Carried 7-0.

38. Bids from the following:

(A) **Ennis** Paint (John Anderson, President) for traffic paint to be used by the Traffic and Transportation Department per State of Iowa DOT Contract, $33,515.35.  (Council Communication No. 10-089) Moved by Hensley to adopt.  Motion Carried 7-0.

(B) **Intergraph** Corporation (Ben Eazzetta, Chief Operations Officer), sole area wide distributor, for software licenses for use at alternate dispatch site of Police Department, $95,979.  (Council Communication No. 10-103) Moved by Hensley to adopt.  Motion Carried 7-0.

39. **Civil** Service Promotional List for Police Information Typist.  Moved by Hensley to receive and file.  Motion Carried 7-0.

40. **Authorizing** Finance Director to draw checks on registers for the weeks of February 22 and March 1, 2010; to draw the checks for bills of the Des Moines Municipal Housing Agency for the weeks of February 22 and March 1, 2010; and to draw the checks for biweekly payroll due February 26, 2010.  Moved by Hensley to adopt.  Motion Carried 7-0.
ORDINANCES - FINAL CONSIDERATION

10-288  41. Amending Chapter 98 of the Municipal Code regarding curbside recycling to permit Public Works to collect single-stream recycling at local small businesses, churches and apartments. Moved by Moore that this ordinance do now pass, #14,919. Motion Carried 7-0.

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

ORDINANCES - FIRST CONSIDERATION

10-289  42. Amending Chapter 114 of the Municipal Code to prohibit left turns onto 57th Street from a commercial driveway that connects from a proposed new commercial development at the NE corner of Merle Hay Road and Douglas Avenue. (Council Communication No. 10-087) Moved by Griess that this ordinance be considered and given first vote for passage. Motion Carried 7-0.

10-290  (A) Final consideration of ordinance above. Moved by Griess that the rule requiring that an ordinance 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, #14,920. Motion Carried 7-0.

COUNCIL REQUESTS

10-291  43. From Council Member Halley Griess to speak regarding Council traveling and memberships. Moved by Griess to refer to the City Manager for recommendation regarding the process to approve Mayor/Council memberships each year and to amend the current travel policy to require any Mayor/Council travel requests over $150 to be approved by Council prior to the trip. Motion Carried 7-0.

COMMUNICATIONS/REPORTS

10-292  44. From Jeff Ibbotson, 4925 Franklin Avenue, to speak regarding making a change to Des Moines Code allowing him to sell and demonstrate Planika Biofuel Fireplaces in Des Moines. Moved by Meyer to receive and file comments. Motion Carried 7-0.

10-293  45. Request from Adam Sieren and Casey White, representing The Shuttle Company, 6209 Urbandale Avenue, to speak regarding offering a shuttle service between the Court Avenue District and the West Glen Town Center, and their desire for shuttle stop signs to be placed on public property. Moved by Hensley to refer to the City Manager to work with The Shuttle Company on the process to implement their plan. Motion Carried 7-0.
HEARINGS (OPEN AT 5:00 P.M.) (ITEMS 46 THRU 56)

10-294 46. **On** amendment to the Annual Budget for current fiscal year ending June 30, 2010. **Moved** by Coleman to adopt. Council Member Hensley votes No on the Mayor/Council Budget. Motion Carried 7-0.

10-295 (A) **On** proposed Annual Budget for fiscal year ending June 30, 2011 and adopting the Capital Improvements Program (CIP) for 2010/11 – 2015/16. **(Council Communication No. 10-107)** **Moved** by Coleman to adopt. Council Member Hensley votes No on the Mayor/Council Budget. Motion Carried 7-0.

10-296 (B) **Approving** diminution of 13 positions. **(Council Communication No. 10-110)** **Moved** by Coleman to adopt. Motion Carried 6-1. Nays: Moore.

10-297 47. **On** adoption of the proposed Resolution of Necessity for street improvements for the following: **(Council Communication No. 10-108)** **Moved** by Hensley to adopt. **Motion Carried 7-0.**

(A) Druid Hill Drive from Bell Avenue to Casady Drive.

10-298 (1) **Petition** in favor. **Moved** by Hensley to receive and file. **Motion Carried 7-0.**

(B) E. 35th Street and Arthur Avenue from Easton Blvd to E. 34th Street.

10-299 (1) **Communications** in favor. **Moved** by Mahaffey to receive and file. **Motion Carried 7-0.**

10-300 (2) **Communication** in objection. **Moved** by Mahaffey to receive and file. **Motion Carried 7-0.**

10-301 (C) **Authorization** for acquisition of necessary right-of-way and easements. **Moved** by Mahaffey to adopt. **Motion Carried 6-1.** Absent: Moore.

48. Items regarding request from Hubbell Realty Company for property at 2801 Fleur Drive (Rollins Mansion), to allow adaptive reuse of the structure for a commercial use, such as retail, professional office or a medical office, (Plan and Zoning Commission recommends **DENIAL**), 6 votes required for approval of request:

**WITHDRAWN**

10-302 (A) **Communication** from Plan and Zoning Commission regarding request to amend the Des Moines 2020 Community Character Plan future land use designation from “Low Density Residential” to “Commercial: Auto-Oriented Small-Scale Strip Development”.

10-303 (1) **Alternate** resolution to approve amending the Des Moines 2020 Community Character Plan. **Moved** by Hensley to adopt, and approve the proposed amendment. **Motion Carried 7-0.**
WITHDRAWN

10-304 (B) Hearing on rezoning of the property from “C-0” (Commercial-Residential) to Lt’d. “C-2” (General Retail and Highway-Oriented Commercial).

10-305 (1) Alternate resolution to approve the rezoning. Moved by Hensley to adopt and approve the rezoning, subject to final passage of the rezoning ordinance. Motion Carried 7-0.

10-306 (2) First consideration of ordinance above. (Council Communication No. 10-101) Moved by Hensley that this ordinance be considered and given first vote for passage, and seek input from the Plan & Zoning Commission prior to the second consideration of the ordinance. Motion Carried 7-0.

49. Items regarding request from Kingston Properties, LLC for property at 5101 SE 40th Street, to allow retention of a contractor’s outdoor storage yard, (Plan and Zoning Commission recommends DENIAL) 6 votes required for approval of request:

10-307 (A) Communication from Plan and Zoning Commission regarding request to amend the Des Moines 2020 Community Character Plan future land use designation from “Agricultural” to “General Industrial”. Moved by Meyer to adopt and deny the proposed amendment. Motion Carried 7-0.

10-308 (B) Hearing on rezoning of the property from “A-1” (Agricultural) to “M-1” (Light Industrial). Moved by Meyer to deny. Motion Carried 7-0.

50. Items regarding request from S&G Real Estate, for property at 2601 E. Market Street, to allow continued use of a single-family dwelling, 6 votes required for approval due to opposition:

10-309 (A) Communication from Plan and Zoning Commission regarding request to amend the Des Moines 2020 Community Character Plan future land use designation from “General Industrial” to “Low-Density Residential”. Moved by Meyer to adopt, and approve the proposed amendment. Motion Carried 7-0.

10-310 (B) Hearing on rezoning of the property from “M-1” (Light Industrial) to Ltd. “R1-60” (One-Family Low-Density Residential). Moved by Meyer to adopt and approve the rezoning, subject to final passage of the rezoning ordinance. Motion Carried 7-0.

10-311 (1) First consideration of ordinance above. Moved by Meyer that this ordinance be considered and given first vote for passage. Motion Carried 7-0.

10-312 (2) Final consideration of ordinance above. Moved by Meyer that the rule requiring that an ordinance 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, #14,921. Motion Carried 7-0.

51. On Application for Certificate of Public Convenience and Necessity to operate limousine services, requested by the Downtown Des Moines Marriott Hotel. (Council Communication No. 10-088) Moved by Hensley to adopt. Motion Carried 7-0.

52. On conveyance of underground electric line easement to MidAmerican Energy Company for service to existing cell tower located on Waveland Golf Course, $1. Moved by Hensley to adopt. Motion Carried 7-0.

53. On assessment of $500 penalty to Vaudeville Mews, LLC, 212 4th Street, for allowing a minor on the premises after 9:00 PM. Moved by Hensley to adopt. Motion Carried 7-0.

54. On E. 33rd Street & Easton Boulevard Intersection Improvements: Resolution approving plans, specifications, form of contract documents, engineer’s estimate and designating lowest responsible bidder as Elder Corporation, (Jared R. Elder II, President), $437,704.25. (Council Communication No. 10-106) Moved by Mahaffey to adopt. Motion Carried 7-0.

55. On E. Army Post Road/Douglas Avenue/41st & 42nd Street Median Replacement: Resolution approving plans, specifications, form of contract documents, engineer’s estimate and designating lowest responsible bidder as Rocky Hurst Construction, Inc., (Kaye L. Hurst, President), $177,596.50. (Council Communication No. 10-102) Moved by Meyer to adopt. Motion Carried 7-0.

56. On SW 30th Street Trail Connection at Carney Park: Resolution approving plans, specifications, form of contract documents, engineer’s estimate and designating lowest responsible bidder as Rocky Hurst Construction, Inc., (Kaye L. Hurst, President), $28,435. (Council Communication No. 10-104) Moved by Hensley to adopt. Motion Carried 7-0.

APPROVING

57. Assistance Agreement for second grant payment of $555,000 for a Mortgage Buy-Down Program for Energy – Efficient Residential Buildings as part of Department of Energy (DOE) Energy Efficiency and Conservation Block Grant (EECBG). (Council Communication No. 10-075) Moved by Mahaffey to adopt. Motion Carried 6-1. Pass: Hensley.

58. Amendment to contract with ABM Janitorial Services, North Central, Inc. d/b/a ABM Janitorial Services to decrease the frequency of custodial services for Municipal Buildings providing for $51,015.36 annual savings. (Council Communication No. 10-092) Moved by Hensley to adopt. Motion Carried 6-1. Nays: Moore

59. Number not used.

60. I-Jobs Grant Contract with the Iowa Finance Authority (IFA) for $2,200,000 for the Franklin Avenue Library Expansion. (Council Communication No. 10-097) Moved by Griess to adopt. Motion Carried 7-0.

MOTION TO ADJOURN. Moved by Griess to adjourn at 7:03 PM. Motion Carried 7-0.

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