



***** DES MOINES CITY COUNCIL MEETING REPORT *****

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 '09-' 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

November 23, 2009 4:30 PM

SPECIAL PRESENTATIONS - 4:00 PM

Youth Advisory Board Update

INVOCATION: Council Member Brian Meyer

- [09-2078](#) 1. ROLL CALL: **Present: Cownie, Coleman, Hensley, Kiernan, Mahaffey, Meyer, and Vlassis.**
- [09-2079](#) 2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED: **Moved by Vlassis to adopt. Motion Carried 7-0.**
- [09-2080](#) 3. APPROVING CONSENT AGENDA – items 3 through 46: **Moved by Coleman to adopt the balance of the consent agenda. 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.**

LICENSES AND PERMITS

[09-2081](#)

- 4. [Approving](#) Alcoholic Beverage License Applications for the following: **Moved by Coleman to adopt. Motion Carried 7-0.**

NEW APPLICATIONS

~~(A) EASTGATE LAUNDROMAT 1424 E OVID AVE B Beer~~

RENEWAL APPLICATIONS

(B) EL RODEO #2	1234 E EUCLID AVE	C Liquor
(C) FELIX & OSCARS	4050 MERLE HAY	C Liquor
(D) FIESTA CANCUN MEXICAN	5118 SE 14TH ST	C Liquor
(E) GINOS RESTAURANT	2809 6TH AVE	C Liquor
(F) KUM & GO #4110	2110 GUTHRIE AVE	C Beer
(G) LA HACIENDA	900 E ARMY POST	C Liquor
(H) QUIKTRIP #541	2428 HUBBELL AVE	C Beer
(I) SHORT STOP #42	3725 BEAVER AVE	C Beer
(J) SKIPS	4000 FLEUR DR	C Liquor
(K) SLEEPY HOLLOW	4051 DEAN AVE	C Liquor
(L) SMOKEYS TRIANGLE TAP	2506 POST	C Liquor
(M) SUDSUCKERS	1511 E ARMY POST	C Liquor
(N) VAUDEVILLE MEWS	212 4TH ST	C Liquor
(O) VICKIE'S	2801 2ND AVE	C Liquor

SPECIAL EVENTS APPLICATIONS

- (P) BARATTAS 519 PARK ST Five (5) Day License Class C Liquor License for an event on December 10–12, 2009. Pending approval of Building, Electrical, Fire and Zoning Departments.

[09-2082](#)

- 5. [City](#) Clerk to issue Coin Operated Machine Licenses. **Moved by Coleman to adopt. Motion Carried 7-0.**

PUBLIC IMPROVEMENTS

[09-2083](#)

- 6. [Ordering](#) construction of Court Avenue & Water Street Gatewell and River Outlet: Receiving of bids, (12-15-09), and Setting date of hearing, (12-21-09). (Construction Estimate - \$537,790). ([Council Communication No. 09-823](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**

[09-2084](#)

- 7. [Approving](#) contract and bond and permission to sublet for construction of an improvement with the estimated cost of which is less than the Iowa Code competitive bid threshold, Neola Pump Station Emergency Generator Relocation, Baker Electric, Inc., Britt Baker, CEO, \$26,074.80. ([Council Communication No. 09-826](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**

- [09-2085](#) 8. Approving contract and bond for construction of an improvement with the estimated cost of which is less than the Iowa Code competitive bid threshold, Blank Park Zoo Parking Lot Relighting, Baker Electric, Inc., Britt Baker, CEO, \$50,390. ([Council Communication No. 09-825](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2086](#) 9. Approving Iowa Department of Transportation (IDOT) Agreement for Principal Riverwalk Recreational Trail. ([Council Communication No. 09-820](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2087](#) 10. Approving professional services agreement with Stanley Consultants, Inc. for design and construction phase services for The Principal Riverwalk North of Armory, not to exceed \$250,000. ([Council Communication No. 09-819](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2088](#) 11. Approving Change Order No. 3 with Corell Contractor, Inc. & Subsidiary for additional work on SE Connector Paving – SW 2nd Street to SE 6th Street Project, not to exceed \$299,000. ([Council Communication No. 09-818](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2089](#) 12. Approving Private Construction Contract between Downing Construction Inc. and Houghton Properties for storm sewer improvements in 1824 DeWolf Street, \$5,520. **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2090](#) 13. Approving Private Construction Contract between Tyler Excavating, Inc. and Melbourne Apartments I, LLLP for sanitary sewer improvements in 5515 SE 14th Street, \$21,500. **Moved by Coleman to adopt. Motion Carried 7-0.**
14. Accepting completed construction and approving final payment for the following:
- [09-2091](#) (A) Absolute Concrete Construction, Inc. – 2009 City-wide Pavement Restoration Program. **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2092](#) (B) Castle Concrete Services, Inc. – East Side Neighborhood Skate Park. **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2093](#) (C) Cramer and Associates, Inc. – University Avenue Bridge over the Des Moines River – Arch Rehabilitation. **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2094](#) (D) Herberger Construction Co., Inc. – SE 5th Street over Yeader Creek Bridge Rehabilitation. **Moved by Coleman to adopt. Motion Carried 7-0.**

SPECIAL ASSESSMENTS

- [09-2095](#) 15. [Levying](#) assessments for fees, fines, penalties, costs and interest imposed in the enforcement of the Neighborhood Inspection Rental Code, Schedule No. 2009-03. **Moved by Coleman to adopt. Motion Carried 7-0.**
16. Approving delinquent sewer rental and/or solidwaste/stormwater utility amounts for October 2009 on the following:
- [09-2096](#) (A) [Fees](#). **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2097](#) (B) [Credits](#). **Moved by Coleman to adopt. Motion Carried 7-0.**

LAND/PROPERTY TRANSACTIONS

- [09-2098](#) 17. [Approving](#) Stormwater Management Facilities Maintenance Covenant and Permanent Easement Agreement with the Iowa Association of Community College Trustees for 855 E. Court Avenue. **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2099](#) 18. [Approving](#) application for Tax Abatement at 5105 Springwood Lane for improvements made during 2007 and denying request to be applied retroactively. ([Council Communication No. 09-831](#)) **Moved by Kiernan to approve the application retroactively as if it had been timely filed and to take the application to Polk County to seek approval, if possible. In addition, refer the matter to the City Manager to assign a member of his staff or from the Community Development Department to work with and assist the property owners during the process, and to provide an update to the Council. The City Manager will review options for fining builders or other ways to help eliminate this problem. Motion Carried 7-0.**
- [09-2100](#) 19. [Authorization](#) to proceed with acquisition of necessary right-of-way and easements for the Riverpoint Trunk Sewer Separation and Pump Stations project. ([Council Communication No. 09-821](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**

BOARDS/COMMISSIONS/NEIGHBORHOODS

20. Resignations from the Historic Preservation Commission as follows:
- [09-2101](#) (A) [Mary](#) Noss Reavely, Seat 4, effective immediately. **Moved by Coleman to receive, file and accept resignation with appreciation for her service. Motion Carried 7-0.**
- [09-2102](#) (B) [Sinde](#) Berry, Seat 1, effective December 31, 2009. **Moved by Coleman to receive, file and accept resignation with appreciation for her service. Motion Carried 7-0.**

- [09-2103](#) 21. [Communication](#) from York Taenzer advising of his resignation from the Neighborhood Revitalization Board, Seat 15, effective immediately. **Moved by Coleman to receive, file and accept resignation with appreciation for his service. Motion Carried 7-0.**

COMMUNICATIONS FROM PLANNING AND ZONING

WITHDRAWN

- [09-2104](#) 22. ~~[Request](#) from Parks and Recreation Director to close the segment of park road known as West River Drive between University Avenue and the Center Street Pedestrian Bridge, and to close the unnamed park road south of University Avenue which extends between Illinois Street and said segment of West River Drive.~~

SETTING DATE OF HEARINGS

- [09-2105](#) 23. [On](#) conveyance of vacated right-of-way adjoining 3001 Merle Hay Rd. and 5703 Urbandale Avenue to D & D Interests, L.L.C., \$50,000, (12-7-09). **Moved by Coleman to adopt. Motion Carried 7-0.**

- [09-2106](#) 24. [On](#) assessment of \$500 penalty to three (3) Liquor License Holders listed on Attachment "A" for violation of Iowa Alcoholic Beverage Laws, (12-7-09). **Moved by Coleman to adopt. Motion Carried 7-0.**

25. On issuance of the following General Obligation Refunding Bonds, (12-7-09): ([Council Communication No. 09-835](#))

- [09-2107](#) (A) [\\$17,250,000](#), Series 2010A. **Moved by Coleman to adopt. Motion Carried 7-0.**

- [09-2108](#) (B) [\\$15,000,000](#), Series 2010B. **Moved by Coleman to adopt. Motion Carried 7-0.**

- [09-2109](#) 26. [On](#) appeal by Casey's Marketing Company on conditions of site plan approval for 6120 Douglas Avenue, (12-7-09). **Moved by Vlassis to set the date of hearing for December 7th at 5:00 PM, and direct the Legal Department to prepare alternate resolutions regarding the 24-foot access. Motion Carried 7-0.**

LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS

- [09-2110](#) 27. [Approving](#) payment of \$2,760 to Hall & Associates for services related to proposed rules by IDNR. **Moved by Coleman to adopt. Motion Carried 7-0.**

- [09-2111](#) 28. [Approving](#) payment of \$18,000 to The Mansion of Central Iowa, L.L.C. for sewer claim. **Moved by Coleman to adopt. Motion Carried 7-0.**

- [09-2112](#) 29. [Approving](#) employment of Mark McCormick and the Belin McCormick Law Firm in conjunction with the Kragnes v. City of Des Moines, Iowa and payment of \$22,193.50 for legal services. **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2113](#) 30. [Approving](#) employment of Belin McCormick law firm for legal services regarding an alleged IDNR violation, the negotiation of a consent decree for the implementation of a Long Term Control Plan for the combined sewer system and combined sewer overflows required by the WRF NPDES Permit. **Moved by Coleman to adopt. Motion Carried 7-0.**

CITY MANAGER COMMUNICATIONS

- [09-2114](#) 31. [Submitting](#) training request for Peggy Schleuger. ([Council Communication No. 09-827](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**

APPROVING

- [09-2115](#) 32. [2008](#) Supportive Housing Program (SHP) Renewal Grant Agreements with the United States Department of Housing and Urban Development (HUD). ([Council Communication No. 09-802](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2116](#) 33. [Authorizing](#) \$175,000 grant request to Polk County Housing Trust Fund for City of Des Moines Minor Repair Loan Program. ([Council Communication No. 09-833](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2117](#) 34. [Execution](#) of Community Development Block Grant with Iowa Department of Economic Development for property acquisition and demolition of structures in the Four Mile Flood Plain area, \$815,460. ([Council Communication No. 09-837](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2118](#) 35. [Agreement](#) with the U.S. Department of the Interior Geological Survey for the operation and maintenance of six (6) river and stream gauging stations. ([Council Communication No. 09-824](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2119](#) 36. [Tax](#) Increment needs for FY 2010-2011. ([Council Communication No. 09-811](#)) **Moved by Coleman to adopt the recommendations contained in Council Communication No. 09-811 and to direct the City Manager or his designee to notify the County Auditor of the City of Des Moines' need for \$24,802,894 of tax increment revenue for FY 2010/2011 and if there are subsequent reductions in tax increment valuations, the City Manager or his designee is authorized to decrease the TIF needs requirement as to be in compliance with the Council's TIF policy. Motion Carried 7-0.**
- [09-2120](#) 37. [Sidewalk](#) café lease with Downtown Preservation Partners, LLC for area east of Centro Restaurant, along the west right-of-way of 10th Street at 1011 Locust Street. ([Council Communication No. 09-830](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**

- [09-2121](#) 38. [City Manager ICMA-RC Vantage Care Health Retirement Savings Plan.](#) ([Council Communication No. 09-804](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2122](#) 39. [Authorizing](#) a Request for Proposals (RFP) for benefit consulting services for the City's Employee Health and Dental Plans and Flexible Spending Account administration for FY2011 with a grant of good cause to expedite timelines under Section 2-710 of the Des Moines Municipal Code. ([Council Communication No. 09-836](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2123](#) 40. [2009](#) Letter of Agreement for the Holiday Food Project with the Catholic Pastoral Center. ([Council Communication No. 09-806](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2124](#) 41. [Phase III](#) (Curb Ramps) of the ADA Transition Plan. ([Council Communication No. 09-812](#)) **Moved by Coleman to approve. Motion Carried 7-0.**
- [09-2125](#) 42. [Termination](#) of joint acceptance of senior golf badges with Polk County effective December 1, 2009. ([Council Communication No. 09-807](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2126](#) 43. [Exception](#) to the procurement ordinance request for proposals requirement for good cause and approving an agreement with Nestingen, Inc. for database administrative services. ([Council Communication No. 09-803](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
44. Bids from the following:
- [09-2127](#) (A) [Carpenter](#) Uniform Company (Robert Carpenter, Owner/President) for ballistic vests to be used by the Police Department, \$34,205.36. (Eight bids mailed, five received). **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2128](#) (B) [Grimes](#) Asphalt & Paving Corporation (JM Yonker, President) for high performance cold mix asphalt to be used by the Public Works Department, \$97,500. (Six bids mailed, three received). ([Council Communication No. 09-829](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2129](#) (C) [Peterbilt](#) of Des Moines (Brad Wilson, President) for one replacement refuse truck to be used by the Public Works Department, \$245,460. (Seven bids mailed, six received). ([Council Communication No. 09-805](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
- [09-2130](#) 45. [Civil](#) Service Promotional List for Sewer Cleaning Equipment Operator. **Moved by Coleman to receive and file. Motion Carried 7-0.**

- [09-2131](#) 46. [Authorizing](#) Finance Director to draw checks on [registers](#) for the weeks of November 23 and November 30, 2009; to draw checks for [bills](#) of the Des Moines Municipal Housing Agency for the weeks of November 23 and November 30, 2009; and to draw checks for bi-weekly payroll due December 4, 2009. **Moved by Coleman to adopt. Motion Carried 7-0.**

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

COMMUNICATIONS/REPORTS

- [09-2132](#) 47. [From](#) Kyle Miller, 910 E. Bell Avenue, to speak regarding possible City Code changes for zoning. **Moved by Meyer to receive and file comments and refer to the City Manager for review and recommendation. Motion Carried 6-1. Absent: Coleman.**
- [09-2133](#) 48. [From](#) Bill Sherman, 3928 Twana Drive, to speak on behalf of the Polk County Historical Society regarding proposed art to be placed on parking lot side of floodwall between Principal Park and the extension of ML King Parkway, west of Water Street. **Moved by Hensley to receive, file and refer to City Manager to prepare a contract for Council consideration. Motion Carried 7-0.**
- [09-2134](#) 49. [Request](#) from Bob Wessel, 2719 E. Leach Avenue, to speak regarding City finances. **Moved by Meyer to receive and file comments. Motion Carried 7-0.**
- [09-2135](#) 50. [Receipt](#) of 2008 Annual Report of Greater Des Moines Public Art Foundation. **Moved by Hensley to receive and file. This item should be placed on a workshop agenda. Motion Carried 7-0.**

HEARINGS (OPEN AT 5:00 P.M.) (ITEMS 51 THRU 53)

- [09-2136](#) 51. [On](#) lease of property known as “Hansen Triangle” at 2nd and Grand Avenues from MidAmerican Energy, dedication of property as parkland and as part of the Principal Riverwalk and reaffirming the name as “Hansen Triangle”. ([Council Communication No. 09-808](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**
- [09-2137](#) (A) [Setting](#) date of hearing on grant of a license to Edmundson Art Foundation, Inc. d/b/a The Des Moines Art Center and the Des Moines Riverfront Development Authority for the installation, display and maintenance of the sculpture and fountain at Hansen Triangle, (12-7-09). ([Council Communication No. 09-809](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**
- [09-2138](#) 52. [On](#) corrected conveyance of segment of east/west alley running west of Martin Luther King Jr. Parkway between Washington and Mondamin Avenue to Frederick Robert Hews, (to correct error in legal description). **Moved by Vlassis to adopt. Motion Carried 7-0.**

- [09-2139](#) 53. On conveyance of city-owned property adjoining 1404 Emma Avenue to Nicholas P. Tursi, \$100. ([Council Communication No. 09-822](#)) **Moved by Meyer to adopt. Motion Carried 7-0.**

*** END HEARINGS AT 5:07 PM ***

APPROVING

- [09-2140](#) 54. Memorandum of Agreement with State Historic Preservation Officer (SHPO) and SA Metro Lofts Limited Partnership for archaeological survey of site for Metro Lofts Project at 255 Vine Street. ([Council Communication No. 09-832](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**
- [09-2141](#) 55. Recommendations to modify the Vicious Dog Ordinance. **Moved by Hensley to refer to the City Manager to provide information regarding how many of the pit bulls impounded were properly licensed. The City Manager will continue discussions focusing on irresponsible owners, education and compliance issues. Motion Carried 7-0.**

WITHDRAWN

- [09-2142](#) (A) ~~Approving amendment to the schedule of fees regarding vicious dog licenses. ([Council Communication No. 09-817](#))~~
- [09-2143](#) 56. Recommendation to construct a trail connection to McHenry Park as part of the rebuild of the Birdland Levee. ([Council Communication No. 09-828](#)) **Moved by Mahaffey to adopt. Motion Carried 6-1. Pass: Cownie.**

EXTRA ITEMS

1. Approving appointment and reappointments of the following:

- [09-2144](#) (A) Council Member Bob Mahaffey to appoint Ryan Smith to Des Moines Music Commission, Seat 5, for a two-year term commencing July 1, 2009 to expire July 1, 2011. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- [09-2145](#) (B) Council Member Christine Hensley to reappoint Martie Mendenhall to Building and Fire Code of Appeals, Seat 6, for a three-year term commencing April 1, 2009 to expire April 1, 2012. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- [09-2146](#) (C) Council Member Christine Hensley to reappoint Tom Zmolek to Des Moines Music Commission, Seat 6, for a two-year term commencing July 1, 2009 to expire July 1, 2011. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- [09-2147](#) (D) Council Member Chris Coleman to appoint Darlene Blake to Sister Cities Commission, Seat 6, for a five-year term commencing April 28, 2009 to expire April 28, 2014. **Moved by Vlassis to adopt. Motion Carried 7-0.**

BOARD OF HEALTH

[09-2148](#) MOTION TO CONVENE. **Moved by Vlassis that the City Council adjourn and convene as a Board of Health. Motion Carried 7-0.**

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

[09-2149](#) (A) [1429](#) University Avenue, fire-damaged structure, Titleholders: Charles E. Stewart and Evelyn W. Stewart; Contract Buyer: Church of God in Christ. **Moved by Meyer to adopt. Motion Carried 7-0.**

[09-2150](#) (B) [3703](#) SE 14th Street, main structure and accessory structures, Titleholder: Kenoyer and Associates, LLC. **Moved by Meyer to adopt. Motion Carried 7-0.**

[09-2151](#) (C) [1232](#) 48th Street, main structure, Titleholders: Robert H. Meddaugh and Kathryn A. Stangle; Mortgage Holder: West Des Moines State Bank; Beneficiary to Trust: Grace V. Meddaugh; Trustee: Transnation Title Insurance Company nka Transnation Title Agency of Michigan. **Moved by Meyer to adopt. Motion Carried 7-0.**

[09-2152](#) MOTION TO ADJOURN. **Moved by Kiernan to adjourn at 7:36 PM. Motion Carried 7-0.**