SUMMARY OF DES MOINES CITY COUNCIL MEETING

September 26, 2011
4:30 PM

INVOCA TION: Council Member Coleman

11-1608 1. ROLL CALL: Present: Cownie, Coleman, Griess, Hensley, Mahaffey, Meyer and Moore.

11-1609 2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED: Moved by Hensley to adopt. Motion Carried 7-0.

11-1610 3. APPROVING CONSENT AGENDA * – items 3 through 42: 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.

LICENSES AND PERMITS

11-1611 4. Approving Alcoholic Beverage License Applications for the following: Moved by Hensley to adopt. Motion Carried 7-0.

NEW APPLICATIONS

(A) DES MOINES VALERO #202 821 E EUCLID AVE C Beer
(B) WASABI CHI ASIAN DINER 5418 DOUGLAS AVE C Liquor
RENEWAL APPLICATIONS

(C) ANDYS PLACE 5114 SW 9TH ST C Liquor
(D) BISTRO MONTAGE 2724 INGERSOLL C Liquor
(E) DES MOINES IZAAK WALTON 4343 GEORGE FLAGG C Liquor
(F) DES MOINES MARRIOTT 700 GRAND AVE B Liquor
(G) DES MOINES MARRIOTT 700 GRAND AVE E Liquor
(H) DOS RIOS 316 COURT AVE C Liquor
(I) FIREHOUSE LOUNGE 1930 SE 6TH ST C Liquor
(J) GODFATHERS PIZZA 4119 UNIVERSITY B Beer
(K) GUCKENHEIMER 1331 GRAND AVE C Liquor
(L) HEROES 216 COURT AVE C Liquor
(M) LA BAMBA MEXICAN 6101 GRAND AVE C Liquor
(N) MONTANA MIKES 5030 NE 14TH ST C Liquor
(O) PELICAN BAR 208 3RD ST C Liquor
(P) SHOP N SAVE 2127 MLK JR PKWY E Liquor
(Q) SMOKEYS TRIANGLE TAP 2506 POST C Liquor
(R) UNIVERSITY GROCERIES 2121 UNIVERSITY E Liquor
(S) VICKIE’S 2801 2ND AVE C Liquor
(T) WELLMANS PUB 2920 INGERSOLL C Liquor

TRANSFER TO NEW LOCATION

(U) GRAND VIEW COLLEGE 2800 E 14TH ST C Beer/Wine
Temporary transfer from 1500 Morton Avenue. Pending approval of Building, Electrical, Fire and Zoning Departments.

OUTDOOR SERVICE APPLICATIONS

(V) BOURBON ST 500 ARMY POST RD C Liquor
Temporary for Abate Toy Run on October 9, 2011. Pending approval of Building, Electrical and Zoning Departments.

SPECIAL EVENT APPLICATIONS

(W) CATER 2 U 3631 SW 61ST ST Five (5) Day License
Class C Liquor License for wedding reception on October 1, 2011.

(X) DES MOINES SOCIAL CLUB 4025 TONAWANDA DR Five (5) Day License
Special Class C Liquor License (Beer/Wine) for Out Your Artist event on October 11, 2011. Pending approval of Building, Fire and Zoning Departments.

(Y) DOWNTOWN EVENTS 401 E 5TH ST Five (5) Day License
Special Class C Liquor License (Beer/Wine) for World Food Festival on October 7 – 9, 2011.

(Z) GLAZA STUDIO 502 E LOCUST ST Five (5) Day License
Class C Liquor License for Drag King event on October 1, 2011.
5. **City** Clerk to issue Cigarette Licenses. *Moved by Hensley to adopt. Motion Carried 5-2. Nays: Cownie and Moore.*

### PUBLIC IMPROVEMENTS

6. **Authorize** the City Manager to submit a “Safe Routes to School” (SRTS) FY2013 Fund Application to the Iowa Department of Transportation (IDOT). *(Council Communication No. 11-606) Moved by Hensley to adopt. Motion Carried 7-0.*

7. **Approving** and authorizing the application for a Department of Transportation TIGER discretionary grant for the Southeast Connector Project between SE 14th and SE 30th Streets. *(Council Communication No. 11-605) Moved by Hensley to adopt. Motion Carried 7-0.*

8. **Approving** Supplemental Agreements to the Southeast Connector Professional Services Agreement with Kirkham Michael & Associates to provide additional construction phase services for the Southeast Connector projects. *(Council Communication No. 11-609) Moved by Hensley to adopt. Motion Carried 7-0.*

9. **Approving** Change Order No. 4 with Dean Snyder Construction Company for additional work on the Fire Department Training and Logistics Facility, not to exceed $160,372.11. *(Council Communication No. 11-608) Moved by Hensley to adopt. Motion Carried 7-0.*

10. **Communication** from contractors requesting permission to sublet certain items on public improvements projects. *Moved by Hensley to adopt. Motion Carried 7-0.*

### SPECIAL ASSESSMENTS

11. **Levying** assessments for costs of Nuisance Abatement-NAC Emergency Orders (Community Development) Schedule No. 2011-11. *Moved by Hensley to adopt. Motion Carried 7-0.*

12. **Approving** waiver of public nuisance assessment of $11,690.57 plus interest on 1160 Martin Luther King Jr. Parkway to allow construction of a low-income housing tax credit project by Des Moines Greystone Homes, L.P. *(Council Communication No. 11-600) Moved by Hensley to adopt. Motion Carried 7-0.*
LAND/PROPERTY TRANSACTIONS

11-1620  13. Accept real estate documents for 1339 12th Street from Andrea Segovia in conjunction with the Forest Avenue Urban Renewal Project – King Irving Neighborhood. (Council Communication No. 11-611) Moved by Hensley to adopt. Motion Carried 7-0.

11-1621  14. Accept real estate documents for property easement at the corner of 2nd Avenue and Center Street from Polk County for traffic signal systems in conjunction with Principal Riverwalk Project. Moved by Hensley to adopt. Motion Carried 7-0.

11-1622  15. Approving Final Subdivision Plat of Woodside Estates West Plat 7, 5564 NW 3rd Ct., in unincorporated Polk County. (Council Communication No. 11-603) Moved by Hensley to adopt. Motion Carried 7-0.

11-1623  16. Conditionally granting prior approval of Tax Abatement for a new residence at 4790 E. Spring Street. (Council Communication No. 11-599) Moved by Hensley to adopt. Motion Carried 7-0.

11-1624  17. Authorization to proceed with acquisition of the necessary property interests for the 2011 and 2012 Sewer Repair Project. (Council Communication No. 11-612) Moved by Hensley to adopt. Motion Carried 7-0.

BOARDS/COMMISSIONS/NEIGHBORHOODS

WITHDRAWN

11-1625  18. Recommendation from Housing Services Director to appoint the following to the Housing Services Board: Claudia Addy, Seat 10, Michelle Garcia, Seat 11, and John Warrington, Seat 12, for three-year terms commencing September 26, 2011 and expiring June 30, 2014. (Council Communication No. 11-615)

11-1626  19. Communication from Andrew Tice advising of his resignation from the Human Rights Commission, Seat 3, effective immediately. Moved by Hensley to receive, file and accept resignation with appreciation for his service. Motion Carried 7-0.

SETTING DATE OF HEARINGS

11-1627  20. On request from Arnold DeWitt to rezone property in vicinity of 1241 E. 38th Street from “R1-60” (One-Family Low-Density Residential) to Ltd. “C-2” (General Retail and Highway-Oriented Commercial), (10-10-11). Moved by Hensley to adopt. Motion Carried 7-0.

11-1628  21. On amendment of Zoning ordinance text in Chapter 134 and Site Plan ordinance text in Chapter 82 establishing a Downtown Overlay District which provides site plan guidelines for an area generally bound by Interstate 235 on the north, Raccoon and Des Moines Rivers on the south, E. 14th Street on the east and M.L. King Jr. Parkway on the west, (10-10-11). Moved by Hensley to adopt. Motion Carried 7-0.
LEGAL DEPARTMENT – CLAIM SETTLEMENTS & BILLINGS

11-1629  22. Approving payment of $201.50 to Peddicord, Wharton, Spencer and Hook, LLP for representation of Police Office Mersed Dautovic. Moved by Hensley to adopt. Motion Carried 7-0.

23. Approving payment of workers’ compensation claims for the following:

11-1630  (A) Angellina Chase-Sitzman, $19,923.96. Moved by Hensley to adopt. Motion Carried 7-0.

11-1631  (B) Gerald Marchant, $12,180.60. Moved by Hensley to adopt. Motion Carried 7-0.

11-1632  (C) James Hightshoe and his attorney, Christopher Spaulding, $28,618.50. Moved by Hensley to adopt. Motion Carried 7-0.

11-1633  (D) Albert Salazar, $15,340.20. Moved by Hensley to adopt. Motion Carried 7-0.

11-1634  24. Approving payment of $100,000 to Janeen Woodson and her attorney, Jim Lawler, for a claim arising out of a motor vehicle accident. Moved by Hensley to adopt. Motion Carried 7-0.

APPROVING

11-1635  25. Initial LIHEAP (Low-Income Home Energy Assistance Program) Contract with the Iowa Department of Human Rights, Division of Community Action Agencies for energy-related assistance for low-income persons from October 1, 2011 to September 30, 2012. (Council Communication No. 11-626) Moved by Hensley to adopt. Motion Carried 7-0.

11-1636  26. Preliminary terms of agreement with Westend Lofts, LLC for renovation of 1440 Locust Street. (Council Communication No. 11-624) Moved by Hensley to adopt. Motion Carried 7-0.

11-1637  27. Loan agreement with Alliance Technologies, Inc. to retain its home office and employment opportunities in Des Moines at 420 Watson Powell Jr. Way. (Council Communication No. 11-625) Moved by Hensley to adopt. Motion Carried 7-0.

11-1638  28. Des Moines Apartments, L.P. Application for Enterprise Zone benefits for construction of 146 residential units at 6th and Locust in the Gateway Enterprise Zone. (Council Communication No. 11-622) Moved by Hensley to adopt. Motion Carried 7-0.

11-1639  29. Neighborhood Commercial Revitalization (NCR) Program Predevelopment grant of $5,000 and a Façade grant of $15,000 for renovations to 210 Court Avenue. (Council Communication No. 11-616) Moved by Hensley to approve. Motion Carried 7-0.
*(Council Communication No. 11-621)* Moved by Hensley to adopt. Motion Carried 7-0.

31. **Issuance** of Certificate of Completion to Joe’s Square LLC for development at Beaver Avenue and Fagen Drive.  
*(Council Communication No. 11-617)* Moved by Hensley to adopt. Motion Carried 7-0.

32. **City** Manager to sign future amendments to Attachment A of the Neighborhood Stabilization Program contract with Iowa Department of Economic Development (IDED).  
*(Council Communication No. 11-620)* Moved by Hensley to adopt. Motion Carried 7-0.

33. **Acceptance** of 2011 Edward Byrne Memorial Justice Assistance Grant (JAG), $215,723 City’s portion.  
*(Council Communication No. 11-598)* Moved by Hensley to approve. Motion Carried 7-0.

34. **Fiscal** Year 2011 Official Financial Report for City Streets to Iowa Department of Transportation (IDOT).  
*(Council Communication No. 11-602)* Moved by Hensley to adopt. Motion Carried 7-0.

35. **Payment** of $500,000 to Octavius Bonds and Erin Evans, one-half payable on or before October 7, 2011 and the other half payable between July 1 and July 15, 2012 for settlement of a lawsuit brought against two former police officers.  
Moved by Coleman to adopt. Motion Carried 6-1. Nays: Hensley.

35-I Comments from Angela Nemmers, Des Moines, Iowa, regarding the Iowa Law Enforcement Academy.  
Moved by Coleman to receive and file the comments, and refer to the City Manager to forward the comments to the Iowa Law Enforcement Academy. Motion Carried 7-0.

36. **Communication** from Downtown Community Alliance, on behalf of the Civic Center, to approve banner design for LaCage Aux Folles to be displayed in downtown Des Moines on Grand Avenue in October 2011.  
Moved by Hensley to receive, file and approve banner design. Motion Carried 7-0.

37. **Application** from Des Moines Marathon requesting approval for banners across the streets on Locust for the starting line between 3rd and 4th and finish line on 3rd between Locust and Walnut on Sunday, October 16, 2011.  
Moved by Hensley to receive, file and approve banner. Motion Carried 7-0.

(A) **Application** from Des Moines Oktoberfest, LLC requesting approval for a banner across The Depot Arch on 4th Street to promote Oktoberfest event.  
Moved by Hensley to receive, file and approve banner. Motion Carried 7-0.
38. **Use** of various City Facilities as poll sites for the Regular City Election to be held on Tuesday, November 8, 2011. **Moved by Hensley to approve.** City Clerk will notify the Parks Department and the Housing Services Department to arrange access to the buildings. **Motion Carried 7-0.**

39. Bids from the following:

**11-1651**

(A) **Blacktop** Repair Service Inc. (Patricia Hicks, President) for tennis and basketball court resurfacing services at Birdland Sports Complex, Edna Griffin Park and Harmon Park for use by the Park & Recreation Department, $88,865. (Nine bids mailed, two received). **Moved by Hensley to adopt. Motion Carried 7-0.**

**11-1652**

(B) **Gee** Asphalt Systems (Dan Gee, President) for bituminous fog seal application services for use on newly resurfaced streets to extend the service life of the pavement and reduce maintenance costs for use by the Public Works Department, $44,250. (Three bids mailed, one received). (**Council Communication No. 11-618**) **Moved by Hensley to adopt. Motion Carried 7-0.**

**11-1653**

(C) **Leisure** Time Golf Cars (Nick Noehl, Sales Manager) for three (3) ADA compliant golf carts for each municipal golf course for use by the Park & Recreation Department, $27,300. (Eight bids mailed, five received). (**Council Communication No. 11-613**) **Moved by Hensley to adopt. Motion Carried 7-0.**

**11-1654**

40. **Authorizing** Finance Director to draw checks on registers for weeks of September 26 and October 3, 2011; to draw checks for the bills of the Des Moines Municipal Housing Agency for weeks of September 26 and October 3, 2011; and to draw checks for biweekly payroll due October 7, 2011. **Moved by Hensley to adopt. Motion Carried 7-0.**

**ORDINANCES – FINAL CONSIDERATION**

**11-1655**

41. **Amending** Chapter 114 of the Municipal Code regarding Saturday rates and temporary adjustment of rates in the Municipally-owned parking garages. **Moved by Hensley that this ordinance do now pass, #15,047. Motion Carried 7-0.**

**11-1656**

42. **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. **Moved by Hensley that this ordinance do now pass, #15,048. Motion Carried 7-0.**

**11-1657**

(A) **Approving** amendment to the Schedule of Fees to provide for collection of a research fee associated with enforcement of the code. **Moved by Hensley to adopt. Motion Carried 7-0.**

* * * * * * * **END CONSENT AGENDA** * * * * * * *
ORDINANCES – FIRST CONSIDERATION

11-1658 43. **Amending** Chapter 114 of the Municipal Code submitting traffic regulation changes as follows: (Council Communication No. 11-604) Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 7-0.

(A) Prohibited right-turn on red – intersection of 42nd Street and Center Street.

(B) Parking Restriction – west side of SE 5th Street, south of Livingston Avenue.

11-1659 43. **Amending** Chapter 114 of the Municipal Code submitting traffic regulation changes as follows: (Council Communication No. 11-604) Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 7-0.

11-1659 (C) Final consideration of ordinance above. **Moved by Hensley 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, #15,049.** Motion Carried 7-0.

11-1660 44. **Amending** Chapter 114 of the Municipal Code, to add streets in five neighborhoods to the list of Snow Ordinance Street designations. (Council Communication No. 11-601) Moved by Griess that this ordinance be considered and given first vote for passage. Motion Carried 7-0.

COMMUNICATIONS/REPORTS

45. Number not used.

11-1661 46. **Request** from Carl G. Nelson, 1340 E. 13th Street, to speak regarding special assessments charged against his property. **Moved by Hensley to receive, file and refer to the City Manager for review and recommendation.** Motion Carried 7-0.

11-1662 47. **Receipt** of 2010-11 Annual Report of the Greater Des Moines Public Art Foundation. **Moved by Hensley to receive and file.** Motion Carried 7-0.

11-1663 48. **From** Attorneys for Waterfront Lodging and Riverfront Associates, L.P. to give a short presentation regarding the development proposed for property in the vicinity of SW Water Street, Vine Street, SW 2nd Street and Market Street. **Moved by Hensley to receive, file and refer to City Manager for review and recommendation recognizing the time constraints on the project.** Motion Carried 7-0.
HEARINGS (OPEN AT 5:00 P.M.) (ITEMS 49 THRU 53)

11-1664 49. On request from Hue Nguyen to rezone 1435 University Avenue from “R-3” (Multiple-Family Residential) to Ltd. “C-1” (Neighborhood Retail Commercial) to allow for retail development. Plan and Zoning Commission recommends DENIAL. Moved by Hensley to continue the hearing to October 10, 2011 at 5:00 PM. Motion Carried 7-0.

11-1665 50. On request from Exodus Groups Investments, LLC to rezone 1825 E. Army Post Road from “C-2” (General Retail and Highway Oriented Commercial) to Ltd. “M-1” (Light Industrial) to allow expansion of existing retail/wholesale Farm & City Supply. Moved by Meyer to adopt and approve the rezoning, subject to final passage of the rezoning ordinance. Motion Carried 7-0.

11-1666 (A) First consideration of ordinance above. Moved by Meyer that this ordinance be considered and given first vote for passage. Motion Carried 7-0.

11-1667 (B) Final consideration of ordinance above (waiver requested by the applicant), requires six votes. 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, #15,050. Motion Carried 7-0.

11-1668 51. On request from McDonald’s Corporation to rezone 3002 Forest Avenue from Ltd. “C-1” (Neighborhood Retail Commercial) to a revised Ltd. “C-1” (Neighborhood Retail Commercial) to allow revision of conditions defining the site circulation and parking configuration and exterior design of the building, subject to conditions. Moved by Mahaffey to continue the hearing until October 10, 2011 at 5:00 PM. Motion Carried 7-0.

11-1669 52. 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). Moved by Hensley to adopt and continue the public hearing until October 24, 2011. Motion Carried 7-0.

11-1670 53. On Fire Station No. 1 Replacement: Resolution approving plans, specifications, form of contract documents, Engineer’s estimate and designating lowest responsible bidder as Oakview dck, LLC, (Doug White, President, Structural Division), $5,518,750. (Council Communication No. 11-610) Moved by Hensley to adopt. Motion Carried 7-0.

WITHDRAWN 11-1671 (A) Approving contract and bond, and permission to sublet.

*** END OF HEARINGS AT 5:20 PM ***
APPROVING

11-1672  54. Amendments to City precinct and ward boundaries and approving agreements with Polk and Warren Counties for combined precincts.  (Council Communication No. 11-619) Moved by Hensley to adopt. Motion Carried 7-0.

11-1673  (A) First consideration of ordinance above. Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 7-0.

11-1674  (B) Final consideration of ordinance above (waiver requested by City Manager), requires six votes. Moved by Hensley 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, #15,051. Motion Carried 7-0.

11-1675  55. Tax Abatement Action Plan to amend the City-wide Tax Abatement program extending the duration of tax abatement and to redefine the classes of commercial and industrial improvements eligible for abatement. (Council Communication No. 11-623) Moved by Hensley to adopt. Motion Carried 7-0.

11-1676  56. Approving an additional Category of non-assessed sidewalk in the Policy for New Sidewalk Assessment. (Council Communication No. 11-607) Moved by Meyer to adopt. Motion Carried 7-0.

(A) Authorization to proceed with a discretionary connection sidewalk on the following:

11-1677  (1) E. Sheridan Avenue from 2658 E. Sheridan to Hubbell Avenue. Moved by Meyer to adopt. Motion Carried 7-0.

11-1678  (2) E. Gray Street from 345 E. Gray Street to Indianola Avenue. Moved by Meyer to adopt. Motion Carried 7-0.

11-1679  (3) Hubbell Avenue from Tiffin to 500 feet east. Moved by Meyer to adopt. Motion Carried 7-0.

11-1680  57. Report from City Council Personnel Committee regarding 2011 compensation for City Manager, City Clerk, City Attorney and Human Rights Director. Moved by Coleman to adopt the recommendations contained in the attached communication. Motion Carried 7-0.
57-I Discussion regarding the Mayor’s and City Council Member’s salaries. Moved by Coleman to receive and file the comments, and recommend that the Mayor and Council Members refer their suggestions to Council Member Coleman to coordinate a recommendation. Motion Carried 7-0.

EXTRA ITEMS

1. Approving grant requests to Polk County Housing Trust Fund for the following: Sponsor: Council Member Hensley (Council Communication No. 11-614)

(A) Minor Home Repair Loan Program (Drake Neighborhood), $50,000. Moved by Hensley to adopt. Motion Carried 7-0.

(B) Minor Home Repair Loan Program, $175,000. Moved by Hensley to adopt. Motion Carried 7-0.

(C) Lead Hazard Control Program, total $525,000 ($175,000 over 3 years). Moved by Hensley to adopt. Motion Carried 7-0.

MOTION TO ADJOURN. Moved by Griess to adjourn at 5:48 PM. Motion Carried 7-0.

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All-America City