

**DES MOINES CITY COUNCIL MEETING**

**July 28, 2003 4:30 P.M.**

**PROCLAMATIONS - 4:00 P.M.:**

- (a) America in Bloom Week
- (b) Recognition of Botanical Center Joseph Gardens
- (c) Recognition of Rollin Relics Car Club
- (d) Farmer's Market Week
- (e) Korn Patch Klowns
- (f) National Night Out
- (g) Responsible Gaming Education Week
- (h) Recognition of Jim Grant

**INVOCATION:** Father Peter Cade, Greek Orthodox Church of St. George

1. ROLL CALL:

2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED:

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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.**

3. APPROVING CONSENT AGENDA - items 3 through 59:

LICENSES AND PERMITS:

Approving

4. The following Beer/Liquor Applications:

**NEW APPLICATIONS**

(1) Helen and Pats, 209 Euclid Avenue, C Liquor.

**RENEWAL APPLICATIONS**

(2) Oakmoor Racquetball, 4731 Merle Hay Rd., B Beer.

(3) TNT Vietnamese Restaurant, 3452 Martin Luther King Jr. Pkwy., B Beer.

(4) NE 14th Handimart, 5150 NE 14th Street, C Beer.

(5) Drake University Rathskellar, 2875 University Avenue, C Liquor.

(6) El Patio Mexican Restaurant, 611 37th Street, C Liquor.

(7) Latin King Restaurant, 2200 Hubbell Avenue, C Liquor.

(8) Los Compadres, 1440 Maury Street, C Liquor.

(9) Michaels Restaurant and Lounge, 4041 Urbandale Avenue, C Liquor.

(10) Orlondos, 4337 Park Avenue, C Liquor.

(11) PDs Pub, 3803 SW 9th Street, C Liquor.

(12) Rauls Taco House, 1541 E Grand Avenue, C Liquor.

(13) Toad Holler, 1820 E Army Post Rd., C Liquor.

(14) Varsity Cafe, 1229 25th Street, C Liquor.

(15) NE 14th Handimart, 5150 NE 14th Street, B Wine.

**OUTDOOR SERVICE APPLICATIONS**

(16) Michael's Restaurant & Lounge, 4041 Urbandale Avenue, C Liquor. Temporary outdoor service area in conjunction with Beaverdale Fall Festival on September 19, 20 and 21, 2003.

## **SPECIAL EVENTS APPLICATIONS**

(17) Science Center of Iowa, 4500 Grand Avenue, C Liquor. Five Day Application for fundraising event on August 22, 2003. Pending approval of Building and Fire Inspections.

5. City Clerk to issue Cigarette Licenses.

## **PUBLIC IMPROVEMENTS**

6. Resolution Ordering Construction of the following:

(A) 2003 Sidewalk Replacement Program, Receiving of Bids, (8-12-03), and Setting Date of Hearing, (8-25-03). (Construction Estimate - \$174,900).

(B) 2003 Sidewalk Replacement Program - Designated Neighborhoods, Receiving of Bids, (8-12-03), and Setting Date of Hearing, (8-25-03). (Construction Estimate - \$174,750).

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

(A) Central Place Sanitary Sewer Televising Program, \$10,469.67 is now due and remaining balance of \$1,833.10 to be paid at the end of thirty days.

(B) Blank Park Zoo Gift Shop Addition and Remodeling, \$11,048.14 is now due and remaining balance of \$18,507.74 to be paid at the end of thirty days.

(C) 6th Avenue and SW 7th Street Paving - Mulberry Street to Murphy Street. (Part of M.L. King, Jr. Parkway Project-E/W), \$100,101.45 remaining balance to be paid at the end of thirty days.

8. Approving Private Construction Contract between McAninch Corporation (Douglas D. McAninch, President, West Des Moines) and Grubb Enterprises (John W. Grubb, President, Urbandale) for Street Improvements in the 600 block of Holcomb Avenue (Polar Bear Way).

9. Approving Private Construction Contracts between McAninch Corporation (Douglas D. McAninch, President, West Des Moines) and Brook Run LC (Tom Gratias, President, Clive) for the following:

(A) Storm Sewer Improvements in Brook Run Village Plat 9.

(B) Storm Sewer Improvements in Brook Run Village Plat 10.

(C) Sanitary Sewer Improvements in Brook Run Village Plat 10.

(D) Sanitary Sewer Improvements in Brook Run Village Plat 9.

10. Approving Professional Services Agreement with Brian Clark and Associates (303 Locust Street) for preliminary design and construction cost estimate for the Tonawanda East-West Stream Stabilization Project, not to exceed \$35,450.

[\(Council Communication No. 03-367\)](#)

11. Approving Professional Services Agreement with Howard R. Green to perform design services related to the Des Moines Wastewater Reclamation Facility W3 Expansion, not to exceed \$53,200.

[\(Council Communication No. 03-368\)](#)

12. Approving Professional Services Agreements with Black & Veatch Corporation as follows:

(A) Amendment No. 1 for the WRF Hauled Waste Receiving Station Improvements, final design and construction phase services, not to exceed \$654,000.

[\(Council Communication No. 03-370\)](#)

(B) Amendment No. 1 for the final design and construction phase services for the Des Moines Metropolitan Wastewater Reclamation Facility Dewatering and Thickening System, not to exceed \$1,380,000.

[\(Council Communication No. 03-369\)](#)

13. Approving petition and waiver forms for Sidewalk Program/Request to Repair Driveway executed by one property owner and Paving or Curb replacement Program/Request to Repair Driveway executed by seven property owners.

14. Approving Change Order No. 1 with Cramer & Associates for additional work on the S.W. 9th Street Bridge over Raccoon River Rehabilitation, not to exceed \$31,999.97.

[\(Council Communication No. 03-364\)](#)

15. Communication from Smith Seeding, Inc. requesting an extension of time by sixty (60) work days on the Martin Luther King, Jr. Parkway public improvement project.

16. Communications from M. Peterson Construction Co. for the M. L. King, Jr. Parkway Paving SW and Sheets Excavating, Ltd. for the Gay Lea Wilson Trail Phase III-A requesting permission to sublet certain items on the public improvement projects.

17. Approving designation of the City Engineer, or designee, as the Designated Exempt Entity Authorized Agent (DEEAA) to register all contracts with Iowa Department of Revenue and Finance.

[\(Council Communication No. 03-366\)](#)

### **SPECIAL ASSESSMENTS**

18. Deletion of NAC-Emergency Orders Assessment Schedule No. 2003-06, Certificate No. 00-10240-00 for property at 1243 - 9th Street, \$388.72.

### **LAND/PROPERTY TRANSACTIONS**

19. Approve and accept real estate documents for property at 5209 SW 9th Street for the SW 9th Bridge at Yeader Creek Project, \$5040 plus closing costs.

20. Approve and accept real estate documents for property at 2808 Holcomb Avenue for Closes Creek Storm Water Improvements Project, \$1,025 plus closing costs.

21. Establishing fair market value for acquisition of properties (1720 & 1803 SE 36th, 1500 & 1522 SE 37th Street) for Agrimergent Technology Park Project, \$40,000 plus closing costs.

22. Approving final subdivision plat entitled WOODS ON THE RIVER PLAT 6 located in vicinity, north of Grand River Drive.

[\(Council Communication No. 03-358\)](#)

### **BOARDS/COMMISSIONS/NEIGHBORHOODS**

23. Recommendation of Neighborhood Finance Corporation to appoint Pam Carmichael to Seat 15 on the Neighborhood Revitalization Board for a term to expire June 30, 2004.

## **STREET CLOSURES**

24. Approving recommendation of Street Use Team (SUT) to close the following streets:

(1) Robert May, representing F & G Events Committee, requesting permission to close 11th Street from High Street and Grand Avenue on Friday, August 15, 2003 from 8 PM to 12 AM for the 21st Anniversary Celebration of F & G (AA Club).

(2) Mike Marasco, representing Partners In Charity, Inc., requesting permission to close 4th Street from Court Avenue south to alley on Saturday, August 30, 2003 from 12 PM to 12:30 AM for a charity fundraiser.

(3) Beth Gookin, representing Morton Neighborhood, requesting permission to close Boyd Street south on E. 41st, west on Morton to E. 40th Ct. on Saturday, August 2, 2003 from 5 PM to 10:30 PM for a neighborhood block party.

(4) Elaine Imlau, representing 45th Street Neighbors, requesting permission to close 45th Street from Forest to Carpenter on Sunday, August 17, 2003 from 5 PM to 8 PM for a neighborhood block party.

(5) Nancy Heuer, representing 43rd Street Neighborhood, requesting permission to close 43rd Street from Kingman to California Drive, just southeast of triangle and just west of northwest triangle on California Drive on Saturday, August 23, 2003 from 6 PM to 11 PM for a neighborhood block party.

(6) Beth Hock, representing SE 35th Court Neighbors, requesting permission to close SE 35th Court from Evergreen to Emma Avenue on Saturday, September 6, 2003 from 5 PM to 11 PM for a neighborhood block party.

## **SETTING DATE OF HEARINGS**

25. On petition to establish the Highland Park Self-Supported Municipal Improvement District for the purpose of funding installation, operation and maintenance of streetscape improvements, (8-25-03).

(A) City Plan & Zoning Commission recommendation.

26. On vacation and conveyance of 4th Street from Laurel Street to I-235 to LADCO Development, Inc., \$53,100, (8-11-03).

27. On vacation and conveyance of a portion of the North/South alley between 30th Street and 31st Street and the North/South alley between 31st Street and 32nd Street to Drake University, \$12,426, (8-11-03).

28. On proposed vacation and sale of alley to 10th Street Lofts for use in renovating 110 and 112

- 10th Street, \$14,700, (8-11-03).

(A) First consideration of ordinance above.

29. On request from Marshall Goodman to rezone property located at 2714 Hickman Road from "R1-60" (One Family Low Density Residential) to "R-2" (One and Two Family Residential) to allow development of two (2) duplexes (a total of four residential units), subject to conditions, (8-11-03).

30. On request from Marshall Goodman to rezone property located at 936 McKinley Avenue from "R1-60" (One Family Low Density Residential) and "C-2" (General Retail and Highway Oriented Commercial) to "R-2A" (General Residential) to allow proposed development of 26 townhome condominium units, subject to conditions, (8-11-03).

31. On request from George W. Jordon to rezone property located at 7657 US Hwy 69 from "R-5" (Mobile Home Residential) to "C-2" (General Retail and Highway Oriented Commercial) to allow development of miniwarehouse rental storage facility with controlled access and fenced compound, subject to conditions, (8-11-03).

#### **LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS**

32. Approving payment of \$25,513.13 to Joseph P. Lydic, Sr. for settlement of workers' compensation claim from an injury during course and scope of employment pending approval from the Iowa Workers' Compensation Commission.

33. Approving payment of \$304.85 to Ahlers, Cooney, Dorweiler, Haynie, Smith & Allbee, P.C. for environmental law counsel services in connection with City's acquisition of DICO property.

34. Approving payment of \$247 to Tishler & Wald, Ltd. for representation in the UAL Corporation bankruptcy.

35. Approving payment of \$4,352.19 to Ahlers & Cooney, P.C. for services related to Supplemental No's. 11 and 12 of the Master Lease Program.

36. Approving payment of \$1,578.70 to Ahlers & Cooney, P.C. for services on various issues regarding the Des Moines International Airport.

37. Approving waiver of medical subrogation lien in the amount of \$72,294.34 in case of Toua and Cy Lor.

#### **CITY MANAGER COMMUNICATIONS**

38. Submitting various traffic regulation changes as follows:

(A) Corner Clearance--East Side of 40th Street, South of Aurora Avenue.

(B) Designated Handicapped Parking--North Side of High Street, East of Martin Luther King, Jr. Parkway.

[\(Council Communication No. 03-371\)](#)

39. Submitting out-of-state travel for Bruce Bergman, Lawrence McDowell, Susan Low, Eric A. Anderson, Kandi Reindl, Tami Russell, and Terry Odam.

[\(Council Communication No. 03-343\)](#)

## **APPROVING**

40. Use of various City Facilities as poll sites for precincts 31, 36, 60, 64, and 82 for Regular School Election to be held Tuesday, September 9, 2003 subject to Property Management Administrator's review and approval.

41. Reallocation of \$10,000 of Weed & Seed funding from the Executive Office for Weed & Seed (EOWS).

[\(Council Communication No. 03-373\)](#)

42. Grant application from Department of Justice & Department of Homeland Security to improve communications interoperability between Police, Fire and Emergency Medical Service Agencies in Polk County.

[\(Council Communication No. 03-356\)](#)

43. Designation of the Human Service Planning Alliance as the eligible Local Council for the City for purposes of applying for a discretionary grant under the Early Learning Opportunities Act (ELOA) Program.

44. Authorizing execution of Federal Aviation Administration AIP Grant Agreement for Airport Runway 23 Protection Zone Obstruction Removal.

[\(Council Communication No. 03-360\)](#)

45. First Amendment to Development Agreement with Water Street Brownstones, LLC to allow more time to complete the project and to modify the payment structure of the City TIF Grant.

[\(Council Communication No. 03-353\)](#)



46. Recommendation from the Ingersoll Planning Committee Regarding Planning Process for Ingersoll Avenue corridor, \$10,000.

[\(Council Communication No. 03-351\)](#)

(A) Communication from Co-chairs of the Ingersoll Planning Committee regarding the Committee's recommendation.

47. Allocation up to \$27,500 of Park and Ride revenues for study of an additional Park and Ride Facility and evaluation of the Walnut Transit Mall with possible alternative arrangements for accommodating transit operations in downtown.

[\(Council Communication No. 03-354\)](#)

48. IDOT Agreement to designate a temporary detour route during bridge beam repair on the Beaver Drive Bridge over I-35/80 utilizing Meredith Drive between Beaver Drive and Merle Hay Road.

[\(Council Communication No. 03-362\)](#)

49. Authorizing and providing for issuance of \$9,460,000 General Obligation Refunding Bonds, Series 2003E, and levying a tax to pay.

(A) Authorizing redemption of outstanding General Obligation Bonds, Series 1996C, directing notices of redemption be given, and appointing Wells Fargo Bank Iowa, National Association as registrar and paying agent.

50. Approving Hold Harmless Agreement with Federal Signal Corporation for release of schematic drawings of light bars and accessories.

[\(Council Communication No. 03-357\)](#)

51. Request from MTA to provide free parking in the 7th and Center Park and Ride for shuttle service during the 2003 Iowa State Fair; two Friday evenings and on weekends.

[\(Council Communication No. 03-363\)](#)

52. Quit Claim Deed for 1607 Jefferson and Assignment of Real Estate Contract to United States Department of Housing and Urban Development.

[\(Council Communication No. 03-355\)](#)

53. Civil Service Entrance Lists for Principal Traffic Engineer, Civil Engineer I, Park Planner, and Computer Aided Drafting (CAD) Graphic Technician, and Promotional Lists for Fleet Services Master Mechanic and Senior Police Officer.

54. Bids for the following:

(A) Van Meter Industrial (1751 Guthrie Avenue), sole area wide distributor, for Allen Bradley variable frequency drive system repair parts during fiscal year 2004 to be used by the Wastewater Reclamation Facility, \$35,000.

(B) Grainger Industrial Supply (1811 Sheridan Avenue) from WSCA #6146 for miscellaneous industrial supplies during fiscal year 2004 to be used by the Wastewater Reclamation Facility, \$40,000.

(C) Fisher Scientific (Hanover Park, IL) per State of Iowa Contract # CT1264MV for miscellaneous laboratory supplies during fiscal year 2004 to be used by the Wastewater Reclamation Facility, \$25,000.

(D) Hewlett Packard Company (Omaha, NE) from WSCA #90-00151 for computer equipment to be used by the Wastewater Reclamation Facility, \$49,386.

55. Authorizing Finance Director to issue checks on the registers of August 1 and August 8, 2003; and to draw checks for bills of the Des Moines Municipal Housing Agency for the weeks of July 28 and August 4, 2003; and to draw checks for biweekly payroll due on August 8, 2003.

#### **ORDINANCES - FINAL CONSIDERATION**

56. Amending the Municipal Code to decrease the per acre connection fee imposed on all properties within the Northeast Four Mile Area Trunk Sanitary Sewer Benefited District, and providing for a slight reduction of lands included in the district.

#### **ORDINANCES - SECOND CONSIDERATION**

57. Amending Chapter 10 of the Municipal Code regarding penalties, fees, refunds and transfers of liquor licenses and permits, as amended to include a provision to waive fees when transfer is within 60 days of renewal. **(Defer to Meeting of 8-11-03 at request of City Manager).**

58. Amending Chapter 114 of the Municipal Code regarding traffic regulation changes as follows:

(1) Corner Clearance--East Side of 28th Street, North of Grand Avenue.

(2) Designation of Des Moines Street as a Through Street.

(3) Move Parking Restriction from South Side to North Side of Thornton Court from SE 20th Street to a point 350 feet West.

59. Amending Chapter 34 of the Municipal Code to prohibit use of firearms in cemeteries.

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

**ORDINANCES - FIRST CONSIDERATION**

60. Amending Chapter 114 of the Municipal Code regarding traffic regulation changes as follows:

- (1) Corner Clearance--South Side of Clarkson Avenue, West of Martin Luther King Jr. Parkway.
- (2) Parking Restriction--Both sides of SE 3rd Street between Army Post Road and Bundy Avenue.
- (3) Allow Parking on the West Side of E. 11th Street between Des Moines Street and Lyon Street 6:00 P.M. to 7:00 P.M., Monday through Friday and all day on weekends.

**COMMUNICATIONS/REPORTS**

61. From Marty Mauk, 2701 Arthur, to speak regarding broadcasting of the City's boards and commissions meetings.

**HEARINGS (Opened at \_\_\_\_\_ P.M.) (Items 62 thru 77)**

62. On appeal from William Woolsey, 1460 - 5th Avenue, regarding recommended denial of a Taxicab License.

63. On request from Community Housing Development Corporation (Owner) to rezone property located at 2124 Des Moines Street from "R1-60" (One Family Low Density Residential District) to "R-2A" (General Residential District) to allow development of 12 units of multiple-family residential for senior living, subject to conditions.

- (A) City Plan & Zoning Commission recommendation.
- (B) First consideration of ordinance above.
- (C) Final consideration of ordinance above, (waiver requested by owner) requires six votes.

64. On vacation and conveyance of alley right of way from E. Sheridan to Arthur between E. 23rd and E. 24th, to Michael E. and Rachel E. Sheronick, \$25.

(A) First consideration of ordinance above.

65. On vacation and conveyance of a portion of the east/west alley between High Street and Ingersoll Avenue from 15th Street to a point 208' to the west, adjoining 1501 Ingersoll, to Alan and Janice H. Zuckert, \$29,365.

(A) First consideration of ordinance above.

(B) Final consideration of ordinance above (waiver requested by applicant) requires six votes.

66. On vacation and conveyance of 280' dead end stub of Broad Street running east of SW 12th Street, to five abutting property owners.

(A) First consideration of ordinance above.

(B) Final consideration of ordinance above (waiver requested by applicant) requires six votes.

67. On vacation and conveyance of the north/south alley between E. 28th Court and E. 29th, south of Dean Avenue, to Charles L. and Dorothy L. Parcel, \$50.

(A) First consideration of ordinance above.

(B) Final consideration of ordinance above (waiver requested by applicant) requires six votes.

68. On conveyance of property at 3325 Hubbell Avenue, to Pravinkumar and Jaya P. Patel, in conjunction with negotiated agreement for property interests for the Gay Lea Wilson Recreational Trail Project.

69. On sale of vacated alley right-of-way abutting 1236 E. 27th, to Sandra Pearson, \$25.

70. On vacation of the dead-end segment of Market Street, west of SW 5th Street.

(A) First consideration of ordinance above.

71. On request to approve Final Development Plan for property on the west side of 6900 block of Indianola Avenue, and to continue hearing until September 8, 2003.

72. On voluntary annexation of 4331 NW 44th Street.

73. On Seventh Amendment to the Metro Center Urban Renewal Plan, incorporates design guidelines for Eastern Gateway, updates text regarding neighborhood organization located in the area and revises Financial Condition Report.

[\(Council Communication No. 03-350\)](#)

(A) City Plan & Zoning Commission recommendation.

74. On Tenth Amendment to the Omnibus Urban Renewal Plan Amendment to the Model City Prime Service Area for the City View Plaza Rehabilitation/Redevelopment Program, to terminate the Urban Renewal Plan.

[\(Council Communication No. 03-349\)](#)

75. On First Amendment to the Non-Commercial Aviation Operator Lease Agreement with Meredith Corporation, to remove a portion of the leased premises.

[\(Council Communication No. 03-359\)](#)

76. On Fleur Drive Resurfacing McKinley Avenue to Army Post Rd: Resolution approving plans, specifications, form of contract documents, Engineer's estimate and designating lowest responsible bidder as Des Moines Asphalt & Paving Co. (Jim Gauger, President, DSM), \$449,055.84.

[\(Council Communication No. 03-361\)](#)

(A) Approval of contract and bond; and permission to sublet.

77. On Closes Creek Watershed - Bennett Avenue Storm Water Improvements: Resolution approving plans, specifications, form of contract documents, Engineer's estimate and designating lowest responsible bidder as Van Hauen & Associates, Inc. (Mark Van Hauen, Vice President/CEO, Clive), \$1,187,000.85.

(A) Approval of contract and bond; and permission to sublet.

(B) Approving Supplemental Agreement No. 1 with Snyder & Associates, Inc., \$38,500.

[\(Council Communication No. 03-365\)](#)

\* \* END HEARINGS at \_\_\_\_\_ P.M. \* \*

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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.**

A G E N D A

BOARD OF HEALTH

July 28, 2003

MOTION TO CONVENE

HEARING

1. On resolution to demolish and remove dangerous garage structure or to determine appropriate equitable action to be taken at 2901 E. Grand Avenue, Titleholder: Susan Kinter; Mortgage Holder: Des Moines Metro Credit Union.

AUTHORIZING

2. Court authority to abate the public nuisance at the following locations:

(A) 1448 4th Street (vacant) Titleholder: Peter A. Georgas d/b/a Osceola, Inc.; Contract Buyer: Margarita Alonso; Legal Interest Holder: Hubert Hoff d/b/a TL Associates 18.

(B) 700 24th Street (vacant) Titleholders: Virgil and Marilyn I. Moore; Contract Buyers: Jerry and Glendine LaRue, Sr.

(C) 1414 E. 29th Street (vacant) Titleholders: Khamphay and Bai Phaviset; Legal Interest Holder: ABN AMRO Mortgage Group, Inc.

(D) 1513 College Avenue (vacant) Titleholder: Creative Vision Human Development Center, Inc. a/k/a Creative Visions.

(E) 2935 Walker (vacant) Titleholder: Erik A. Abild.

3. The Engineering Department to cause the removal of 3109 38th Street, Titleholder: Randy L. Simonini.

MOTION TO ADJOURN AT \_\_\_\_\_ P.M.