

**CITY COUNCIL COMMUNICATION 97-597
DECEMBER 22, 1997 AGENDA**

SUBJECT:

**DEFAULT NOTICE– FIRST BAPTIST CHILD
CARE CENTER**

SUBMITTED BY:

**RICHARD CLARK
DEPUTY CITY MANAGER**

SYNOPSIS –

The First Baptist Child Care Center (FBCCC) has not operated a child care center in the 5th and Keo Parking Garage since June 30, 1997, nor has the City received any indication from the FBCCC that a new child care operation is being considered. The operational agreement between the City of Des Moines and the FBCCC stipulates that the facility be used for a child care operation. The agreement between the City and the FBCCC also provides for default notice and termination in the event of failure to perform. Upon delivery of a default notice, the FBCCC has 12 months within which to correct all enumerated deficiencies. It is appropriate that Council consider sending a notice of default to FBCCC.

FISCAL IMPACT –

There will be no direct fiscal impact as a result of the default notice. However, continued vacancy and lack of maintenance of the building will eventually cause deterioration in the facility and may require City dollars to repair the building. (The air-rights are owned by the FBCCC, while the building is owned by the City. Under the City' s agreement, the FBCCC is legally responsible for maintenance and repair.)

RECOMMENDATION –

Direct the City Manager to forward a notice of default to the FBCCC, and authorize the City Manager to investigate future options with respect to the use of the building.

BACKGROUND –

On March 15, 1989, the City Council entered into a lease agreement and an operating agreement

with the FBCCC. Subsequent to entering into the operational agreement with the City, the FBCCC entered into a sub-operating agreement with the YWCA to operate the child care center. By letter dated May 29, 1997, the FBCCC informed the City that the YWCA would cease to act as sub-operator of the child care center on June 30, 1997. The FBCCC has also discussed the possibility of operating the child care center with the Des Moines Public School District. However, the Des Moines Public School District has determined not to enter into an agreement with the FBCCC to operate the child care center. The FBCCC has not submitted the current annual operating budget for the child care center to the City for approval (as is required by the operating agreement). Further, the FBCCC has ceased all child care operations at the child care center. Based on this information, it is appropriate that a default notice be sent to the FBCCC pursuant to Section 11 of the operational agreement. Note that the FBCCC has 12 months from the date of receipt of the City's default notice to correct all deficiencies.

Please note that by letter dated October 8, 1997, the City Manager advised John Bloem, Chairman of the FBCCC, that he would recommend a default notice be sent to the FBCCC at an upcoming City Council meeting. However, Mr. Bloem has not contacted the City in response to the October 8, 1997 letter, nor has Mr. Bloem contacted the City to discuss a course of action.