

***** 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 '05-' 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

December 5, 2005 4:30 P.M.

**Reception for Floyd Jones, Human Rights Director
Great Hall - City Hall
Second Floor
3:00 P.M. to 4:00 P.M.**

RECOGNITIONS – 4:00 P.M.

Floyd Jones – 15 Years of Service

PROCLAMATIONS – 4:00 P.M.

Human Rights Month

Holiday Food Program Week

Drake University Appreciation Day

PRESENTATIONS – 4:00 P.M.

Keep Iowa Beautiful Award

INVOCATION: Pastor Tony Thurston
College Avenue Christian Church

05-2871

1. **ROLL CALL: Present: Cownie, Brooks, Hensley, Kiernan, Mahaffey, and Vlassis. Council Member Coleman entered the meeting prior to Item 27.**

- 05-2872 2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED: **Moved by Vlassis to adopt. Motion Carried 6-1.**

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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.**

- 05-2873 3. APPROVING CONSENT AGENDA – items 3 through 29: **Moved by Hensley to adopt the balance of the consent agenda. Motion Carried 6-1.**

LICENSES AND PERMITS

- 05-2874 4. Approving Alcoholic Beverage License Applications for the following: **Moved Hensley to adopt. Motion Carried 6-1.**

NEW APPLICATIONS

(A) DEN	4369 MERLE HAY RD	C Liquor
(B) HOTEL FORT DES MOINES	1000 WALNUT ST	B Wine
(C) SHORTSTOP #42	3725 BEAVER AVE	C Beer

RENEWAL APPLICATIONS

(D) B & B SUPER MARKET	2001 SE 6TH ST	C Beer
(E) BUZZARD BILLYS	100 COURT AVE	C Liquor
(F) CLUB STATIK	215 E 2ND ST	C Liquor
(G) CORIGLIANOS PIZZA	2619 SW 9TH	B Beer
(H) DAHLS FOODS	1819 BEAVER AVE	E Liquor
(I) DAHLS FOODS	1320 E EUCLID AVENUE	E Liquor
(J) DRAKE LIQUOR STORE	2106 FOREST AVE	E Liquor
(K) FELIX & OSCARS	4050 MERLE HAY ROAD	C Liquor
(L) GIT N GO STORE #24	1142 42ND ST	C Beer
(M) KUM & GO #207	4200 HUBBELL AVE	C Beer
(N) KUM & GO #208	3200 SE 14TH ST	C Beer
(O) KUM & GO #2722	2211 UNIVERSITY AVE	C Beer
(P) KUM & GO #2729	2829 EASTON BLVD	C Beer
(Q) KUM & GO #2731	3104 UNIVERSITY AVE	C Beer
(R) LOS LAURELES	1518 E GRAND AVE	C Liquor

(S)	NADRY INC	2701 INGERSOLL AVE	C Beer
(T)	NOW OR LATER RESTAURANT	3750 E UNIVERSITY AVE	C Liquor
(U)	PLAZA PANTRY	300 WALNUT ST	E Liquor
(V)	PORKYS DINER	4444 DOUGLAS AVE	B Beer
(W)	SMOKE SHOP	1918 SE 14TH STREET	E Liquor
(X)	SURF SHACK	319 COURT AVE	C Liquor
(Y)	TAVERN SOUTH PIZZA & PASTA	1106 ARMY POST RD	C Beer/Wi
(Z)	TEQUILA MEXICAN RESTAURANT	2824 EASTON BLVD	C Liquor
(AA)	TUMEA AND SONS	1501 SE 1ST ST	C Liquor

05-2875 5. City Clerk to issue Cigarette Licenses. **Moved by Hensley to adopt. Motion Carried 1.**

05-2876 6. City Clerk to issue Coin Operated Machine Licenses. **Moved by Hensley to adopt. Motion Carried 6-1.**

PUBLIC IMPROVEMENTS

05-2877 7. Agreement for Professional Services with Brian Clark and Associates for Indianola Ave Connector Area Study, \$30,000. ([Council Communication No. 05-691](#)) **Moved by Hensley to adopt. Motion Carried 6-1.**

8. Approving the completion and recommending acceptance of the following items for Easter Lake Estates Plat 7, located at Easter Lake Drive and SE 27th Street:

05-2878 (A) Private construction contract between Eco Tech Construction, LLC, Contractor, Dr. James W. Pollard, Owner, for paving improvements. **Moved by Hensley to adopt. Motion Carried 6-1.**

05-2879 (B) Private construction contract between Corell Contractor, Inc., Contractor, and James W. Pollard, Owner, for sanitary sewer improvements. **Moved by Hensley to adopt. Motion Carried 6-1.**

05-2880 (C) Private construction contract between Corell Contractor, Inc., Contractor, and James W. Pollard, Owner, for storm sewer improvements. **Moved by Hensley to adopt. Motion Carried 6-1.**

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

05-2881 (A) Agrimergent Technology Park – Clearing & Grubbing Contract 1, Reilly Construction

Co., Inc. **Moved by Hensley to adopt. Motion Carried 6-1.**

- 05-2882 (B) Polk Boulevard and Ingersoll Avenue Intersection Streetscape, Jasper Construction Services, Inc. **Moved by Hensley to adopt. Motion Carried 6-1.**
- 05-2883 (C) 2005 Expanded Street Resurfacing Program – Arterial, Des Moines Asphalt & Pavement Co. **Moved by Hensley to adopt. Motion Carried 6-1.**

SPECIAL ASSESSMENTS

10. Approving deletion of NAC-Emergency Assessments for the following properties:

- 05-2884 (A) 1919 E. Washington Avenue. **Moved by Hensley to adopt. Motion Carried 6-1.**
- 05-2885 (B) 2003 Lay Street. **Moved by Hensley to adopt. Motion Carried 6-1.**

LAND/PROPERTY TRANSACTIONS

- 05-2886 11. Authorizing payment of condemnation award for acquisition of property at 4585 SE 6th Avenue, Carlisle, IA for the SE Ridge Trunk Sanitary Sewer Project, \$35,000. **Moved by Hensley to adopt. Motion Carried 6-1.**

BOARDS/COMMISSIONS/NEIGHBORHOODS

- 05-2887 12. Recommendation of Council Member Robert Mahaffey for appointment of Dr. Stuart Juarez to Seat 5 on the Human Rights Commission through April 1, 2006 and to be reappointed for a three-year term commencing April 1, 2006 to expire April 1, 2009. **Moved by Hensley to adopt. Motion Carried 6-1.**

SETTING DATE OF HEARINGS

- 05-2888 13. On conveyance of property located north of and adjacent to 849 16th Street, to Malcolm and Janel Wells, \$1,000, (12-19-05). ([Council Communication No. 05-686](#)) **Moved by Hensley to adopt. Motion Carried 6-1.**
- 05-2889 14. On request from Chris and Marsha Belcher to rezone property at 111 East 28th Street from “M-1” (Light Industrial) to “R1-60” (One-Family Low Density) to bring existing single-family residential property into conformance as a permitted use, (12-19-05). ([Council Communication No. 05-683](#)) **Moved by Hensley to adopt. Motion Carried 6-1.**

- 05-2890 15. On request from Donald Briggles to rezone property at 920 East Hillside Avenue from "R-1" (Floodplain) to "R1-60" (One-Family Low Density Residential) to allow for proposed detached garage and create legal conforming single-family dwelling, subject to conditions (12-19-05). **Moved by Hensley to adopt. Motion Carried 6-1.**
- 05-2891 16. On request from Git-N-Go Convenience Stores, Inc. to rezone property proposed annexation at 9536 County Line Rd. (Warren County) from "A-1" (Agricultural) to "C-2" (General Retail and Highway-Oriented Commercial), (12-19-05). ([Council Communication No. 05-684](#)) **Moved by Hensley to adopt. Motion Carried 6-1.**
- 05-2892 17. On request from High Street Development, LLC to rezone 1901 and 1903 High Street from "C-2" (General Retail and Highway-Oriented Commercial) to "NPC" (Neighborhood Pedestrian Commercial) to allow development of four rowhouse dwelling units, (12-19-05). **Moved by Hensley to adopt. Motion Carried 6-1.**
- 05-2893 18. On proposed text amendments to Special Permit regulations of the Zoning Ordinance, (12-19-05). **Moved by Hensley to adopt. Motion Carried 6-1.**

LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS

- 05-2894 19. Approving payment of \$2,600.50 to Myers & Jenkins for representation in UAL Corp. bankruptcy and ATA Holdings Corp. bankruptcy and \$586 to Tishler & Wald, Ltd. for representation in UAL Corp. bankruptcy. **Moved by Hensley to adopt. Motion Carried 6-1.**
- 05-2895 20. Approving payment of \$2,112.35 to Nyemaster, Goode, West, Hansell & O'Brien, P.C. for consultation services in conjunction with collective bargaining and related matters. **Moved by Hensley to adopt. Motion Carried 6-1.**

APPROVING

- 05-2896 21. State of Iowa Community Economic Betterment Account (CEBA) Award Loan Agreement and Promissory Note and Second Amendment to Development Agreement with Franklin County and Kemin Industries, Inc. ([Council Communication No. 05-692](#)) **Moved by Hensley to adopt. Motion Carried 6-1.**
- 05-2897 22. Letter of Agreement and Hold Harmless Agreement for Holiday Food Project with Catholic Pastoral Center. **Moved by Hensley to adopt. Motion Carried 6-1.**
- 05-2898 23. Application to U.S. Smokeless Tobacco Company (USSTC) Operation Ranger Donations.

Program by Des Moines Fire Department for a utility vehicle. ([Council Communication No. 05-679](#)) **Moved by Hensley to adopt. Motion Carried 6-1.**

- 05-2899 24. Grant Agreement with Iowa Homeland Security Emergency Management to administer Federal Homeland Security Funds through Law Enforcement Terrorism Prevention Program for Law Enforcement Intelligence Network. ([Council Communication No. 676](#)) **Moved by Hensley to approve. Motion Carried 6-1.**
- 05-2900 25. Addendum and Amendment to contract with Electric Pump and Tool Services, Inc. for provision of new pump stations, replacement pumps, pump repair parts and management of City's pump repair parts inventory and pump repair services. ([Council Communication No. 05-680](#)) **Moved by Hensley to adopt. Motion Carried 6-1.**
- 05-2901 26. Communication from Downtown Community Alliance requesting approval on behalf of the American Society of Landscape Architects to approve banner design for 40 banners in downtown on East Locust Street during April and May 2006. **Moved by Hensley to receive, file and approve banner design. Motion Carried 6-1.**
27. Bids for the following:
- 05-2902 (A) Dewey Ford for two (2) 9900 GVW trucks with dump boxes and service manuals to be used by the Forestry Division of the Public Works Department, \$57,336. (Ten bids mailed, three received). **Moved by Hensley to adopt. Motion Carried 7-0.**
- 05-2903 (B) O'Halloran International for one 56,000 GVW truck to be used by the Street Cleaning Division of the Public Works Department, \$85,997. (Seven bids mailed, one received). **Moved by Hensley to adopt. Motion Carried 7-0.**
- 05-2904 (C) Dewey Ford for one aerial lift truck to be used by the Traffic & Transportation Division of the Engineering Department, \$62,613. (Nine bids mailed, six received). **Moved by Hensley to adopt. Motion Carried 7-0.**
- 05-2905 28. Authorizing Finance Director to draw checks on the registers of December 8 and December 15, 2005; and to draw checks for the bills of the Des Moines Municipal Housing Agency for the weeks of December 5 and December 12, 2005; and to draw checks for biweekly payroll due December 9, 2005. **Moved by Hensley to adopt. Motion Carried 6-1.**

ORDINANCES - FINAL CONSIDERATION

- 05-2906 29. Amending Chapter 114 of the Municipal Code submitting traffic regulation changes follows: **Moved by Hensley that this ordinance do now pass, [#14,518](#). Motion Carried 6-1.**
- (A) **NEW** Administrative process for corner clearance parking restrictions up to 150 feet.
 - (B) Corner Clearance Extension-North side of Arthur Avenue, east of E. 14th Street.
 - (C) Corner Clearance – South side of Chamberlain Drive, west of 45th Place.
- * * * * * END CONSENT AGENDA * * * * *

ORDINANCES - FIRST CONSIDERATION

- 05-2907 30. Amending Parking Rates. ([Council Communication No. 05-693](#)) **Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 1. Nays: Brooks.**
- 05-2908 (A) Final consideration of ordinance above, (waiver requested by City Manager), requires 6 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, [#14,518](#). Motion Carried 6-1. Nays: Brooks.**

WITHDRAWN

- 05-2909 ~~31. Amending Chapter 74 of the Municipal Code relating to golf course fees, Sylvan The Golf and Garden reservation fees, swimming pool fees and Birdland Marina fees. ([Council Communication No. 05-694](#))~~

WITHDRAWN

- 05-2910 (A) ~~Final consideration of ordinance above, (waiver requested by Parks Department), requires 6 votes.~~
- 05-2911 32. Amending Chapter 62 of the Municipal Code by enacting a new section 62-16 relating to sixty-day administrative right-to-sue release. **Moved by Vlassis that this ordinance be considered and given first vote for passage. Motion Carried 7-0.**
- 05-2911A (A) Final consideration of ordinance above, (waiver requested by Assistant City Attorney), requires 6 votes. **Moved by Vlassis 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 [#14,520](#). Motion Carried 7-0.**

- 05-2912 33. Amending Chapter 114 of the Municipal Code submitting traffic regulation changes follows: **Moved by Vlassis that this ordinance be considered and given first vote passage. Motion Carried 7-0.**
- (A) Petition for One-Sided Parking Restriction-Crestmoor Drive between Bel-Aire Road and 50th Street.
- (B) Request to remove Two-Sided Parking Restriction-Wolcott Avenue between SW 31st and SW 31st Streets.
- 05-2913 (C) Final consideration of ordinance above. **Moved by Vlassis 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 now pass, [#14,521](#). Motion Carried 7-0.**

COMMUNICATIONS/REPORTS

- 05-2914 34. From Curtis and Laurie Linhart, Segway of Central Iowa, to speak regarding opening business that offers tours of Downtown Des Moines utilizing the two-wheeled upright personal transport device known as the Segway. ([Council Communication No. 05-688](#)) **Moved by Kiernan to approve. The Mayor will send an acknowledgment letter regarding the City's review of this proposal. Motion Carried 6-1. Nays: Brooks.**

HEARINGS (OPEN AT 5:00 P.M.) (ITEMS 35 THRU 38)

- 05-2915 35. On application from David and Heather Grabill of OH-HO Venture Strategies, L.L.C. doing business as Freedom Taxicab/Cabmobile.com for Certificate of Public Convenience and Necessity to operate a Limousine Service. **Moved by Coleman to close the public hearing and defer decision to the December 19 Council meeting, pending review and recommendation from the City Attorney and City Manager regarding alternative findings. Motion Carried 7-0.**

Council Member Hensley left the meeting after Item 35

- 05-2916 36. On vacation and conveyance of north/south alley between 23rd Street and 24th Street extending 528 feet south from Lincoln Avenue, to Dewayne D. and Vonda K. Rohlfing, \$275. ([Council Communication No. 05-688](#)) **Moved by Vlassis to adopt. Motion Carried 6-1. Absent: Hensley.**

- 05-2917 (A) First consideration of ordinance above. **Moved by Vlassis that this ordinance be considered and given first vote for passage. Motion Carried 6-1. Absent: Hensley.**
- 05-2918 (B) Final consideration of ordinance above, (waiver requested by applicant), requires 6 votes. **Moved by Vlassis 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, [#14,522](#). Motion Carried 6-1. Absent: Hensley.**
- 05-2919 37. On vacation and conveyance of Webster Street, north of Hillside Avenue and east/v alley between South Union and previously vacated Webster Street, north of Hill Avenue and conveyance of previously vacated Webster Street, north of Hillside Avenue Barbara J. Marchant and Pennie Beener - \$550, Teresa M. Burriola - \$50, and K-H Part - \$50. [Council Communication No. 05-689](#)) **Moved by Brooks to adopt. Motion Carried 6-1. Absent: Hensley.**
- 05-2920 (A) First consideration of ordinance above. **Moved by Brooks that this ordinance be considered and given first vote for passage. Motion Carried 6-1. Absent: Hensley.**
- 05-2921 (B) Final consideration of ordinance above, (waiver requested by the buyers of property), requires 6 votes. **Moved by Brooks 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 [#14,523](#). Motion Carried 6-1. Absent: Hensley.**
- 05-2922 38. On vacation and conveyance of a portion of City-owned Ingersoll Avenue right-of-way between 17th Street and 18th Street and the East/West alley between Ingersoll Avenue and Grand Avenue from 17th to 18th Street, Striggles Legacy II, L.L.C., \$2,000. **Moved by Vlassis to adopt. Motion Carried 6-1. Absent: Hensley.**
- 05-2923 (A) First consideration of ordinance vacating east/west alley between Ingersoll Avenue and Grand Avenue from 17th to 18th Street. **Moved by Vlassis that this ordinance be considered and given first vote for passage. Motion Carried 6-1. Absent: Hensley.**
- 05-2924 (B) First consideration of ordinance vacating a portion of Ingersoll Avenue right-of-way between 17th and 18th Streets. **Moved by Vlassis that this ordinance be considered and given first vote for passage. Motion Carried 6-1. Absent: Hensley.**
- 05-2925 (C) Approving Development Agreement with Striggles Legacy II, L.L.C. for development of Gateway Lofts, 1719 Grand Avenue. **Moved by Vlassis to adopt. Motion Carried 6-1. Absent: Hensley.**

Carried 6-1. Absent: Hensley.

- 05-2926 (D) Communication from Urban Design Review Board regarding Gateway L
Conceptual Development Plan and Tax Increment Financing. ([Cou
Communication No. 05-677](#)) **Moved by Vlassis to adopt. Motion Carried 6-1.
Absent: Hensley.**

****END HEARINGS AT 5:59 P.M.****

APPROVING

- 05-2927 39. Resolution to REJECT all bids on Fleur Trail Connector (deferred from November
meeting). **Moved by Kiernan to adopt. Motion Carried 5-1-1. Pass: Coleman
Absent: Hensley.**
- 05-2928 40. Contract for Nextel wireless telecommunication services and equipment from Ne
Partners Inc. ([Council Communication No. 05-690](#)) **Moved by Brooks to adopt a
include an exit clause in the contract, in the event of poor service delivery by Nex
Motion Carried 5-1-1. Pass: Mahaffey. Absent: Hensley.**
- 05-2929 41. Amending the Schedule of Fees for City cemeteries. **Moved by Vlassis to adopt. Mot
Carried 6-1. Absent: Hensley.**
- 05-2930 42. Tax Increment Needs for FY 2006/2007. ([Council Communication No. 05-685](#)) **Mo
by Coleman to adopt the recommendations contained in Council Communication
05-685 and to direct the City Manager or his designee to notify the County Audito
the City of Des Moines' need for \$24,010,440 of tax increment revenue for
2006/2007 and if there are subsequent reductions in tax increment valuations,
Acting City Manager or his designee is authorized to decrease the TIF ne
requirement as to be in compliance with the Council's TIF policy. Motion Carried
1-1. Nays: Brooks. Absent: Hensley.**
- 05-2931 43. Designation of Larry McDowell as Chief Deputy City Attorney. **Moved by Vlassis
receive and file. Motion Carried 6-1. Absent: Hensley.**

EXTRA ITEMS

These extra items are filed after 5:00 P.M. on the Wednesday preceding a Council meeting
have been included upon the Amended Agenda by the City Clerk, with sponsorship of the Ma
or a City Council Member who shall deem the item of sufficient urgency to warrant immed
Council action - said statement of urgency from the City Manager and/or appropriate Departm
Director shall be placed on file with the City Clerk.

- 05-2932 1. Recommendation from Mayor Cownie designating Council Member Brooks, Coleman,

Mahaffey as the City Council Employee Evaluation Sub-Committee. **Moved by Coleman to adopt. Motion Carried 6-1. Absent: Hensley**

BOARD OF HEALTH

05-2933 MOTION TO CONVENE. **Moved by Vlassis that the City Council adjourn and convene at 6:00 P.M. at the Board of Health. Motion Carried 6-1. Absent: Hensley.**

AUTHORIZING

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

05-2934 (A) 2519 Clarkson Avenue, Titleholders: Rick J. and Cheryl A. Monahan; Mortgage Holder: Iowa State Bank. **Moved by Vlassis to adopt. Motion Carried 6-1. Absent: Hensley.**

05-2935 (B) 1719 Jefferson Avenue, Titleholder: Steven Harkema. **Moved by Vlassis to adopt. Motion Carried 6-1. Absent: Hensley.**

05-2936 (C) 2580 Onawa Street, Titleholders: Gary and Suzanne Oeth. **Moved by Vlassis to adopt. Motion Carried 6-1. Absent: Hensley.**

05-2937 (D) 725 SE 9th Street, Titleholder: Delores Torres; Mortgage Holders: Primo Acquisition I, LLC, Deutsche Bank Trust Company, Homeowners Loan Corporation. **Moved by Vlassis to adopt. Motion Carried 6-1. Absent: Hensley.**

05-2938 (E) 3815 15th Street, Titleholders: Beverly J. and Michael Clifton; Mortgage Holder: ABN AMRO Mortgage Group, Inc. **Moved by Vlassis to adopt. Motion Carried 6-1. Absent: Hensley.**

05-2939 (F) 2902 51st Street, Titleholder: Robert E. Brown. **Moved by Vlassis to adopt. Motion Carried 6-1. Absent: Hensley.**

05-2940 MOTION TO ADJOURN. **Moved by Vlassis to adjourn at 6:33 P.M. Motion Carried 6-1. Absent: Hensley.**

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