



***** 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 '11-' 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

September 12, 2011 4:30 P.M.

I. CLOSED SESSION – 3:30 P.M.

- [11-1546](#) (A) Roll Call. **Present: Cownie, Coleman, Griess, Mahaffey, Meyer and Moore. Absent: Hensley.**
- [11-1547](#) (B) Recess, and reconvene in closed session pursuant to Section 21.5(c) of the Code of Iowa. **Moved by Moore to adopt. Motion Carried 6-1.**
- [11-1548](#) (C) Closed Session.
- [11-1549](#) (D) Terminate closed session and reconvene in open session. **Moved by Meyer to adopt. Motion Carried 6-1.**
- [11-1550](#) (E) Motion to adjourn. **Moved by Moore to adjourn at 4:13 PM. Motion Carried 6-1.**

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SPECIAL PRESENTATIONS – 4:15 P.M.

[Iowa](#) Chapter American Public Works Association Project of the Year Award – Jackson Basin Stormwater Pumping Station

INVOCATION: Council Member Halley Griess

- [11-1551](#) 1. **ROLL CALL: Present: Cownie, Coleman, Griess, Hensley, Mahaffey, Meyer and Moore. Council Member Hensley participated in the meeting by telephone.**

[11-1552](#)

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

[11-1553](#)

- 3. APPROVING CONSENT AGENDA * – items 3 through 37: **Moved by Mahaffey 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

[11-1554](#)

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

NEW APPLICATIONS

- ~~(A) ARAMARK @ NATIONWIDE 1100 LOCUST ST C Liquor~~
- ~~(B) WASABI CHI ASIAN DINER 5418 DOUGLAS AVE C Liquor~~

RENEWAL APPLICATIONS

- (C) AK OCONNORS 4050 URBANDALE C Liquor
- (D) CARLOS O'KELLYS 4371 MERLE HAY RD C Liquor
- (E) CASEYS #44 4560 E 14TH STREET C Beer
- (F) EMBASSY SUITES HOTEL 101 E LOCUST ST B Liquor
- (G) FAREWAY STORE #900 100 E EUCLID AVE E Liquor
- (H) FAREWAY STORE #975 3000 SE 22ND ST E Liquor
- (I) H & A MINI MART 145 UNIVERSITY E Liquor
- (J) HULL TAVERN TAP 834 E HULL AVE C Liquor
- (K) INDIA STAR 5514 DOUGLAS AVE C Beer/Wine
- (L) INFINITE 2829 EASTON BLVD C Beer
- (M) NOODLE ZOO 601 E LOCUST ST C Beer/Wine
- (N) PROOF 1301 LOCUST ST C Beer/Wine
- (O) QUIK TRIP #527 1215 6TH AVE C Beer
- (P) QUIKTRIP #560 2300 ML KING C Beer
- (Q) WAL MART SUPERCENTER 5101 SE 14TH ST E Liquor

OUTDOOR SERVICE APPLICATIONS

(R) BLAZING SADDLE 416 E 5TH ST C Liquor
 Temporary in conjunction with East Village Bike Night on September 17, 2011. Pending approval of Building Department.

(S) BUDDYS CORRAL 418 E 5TH ST C Liquor
 Temporary in conjunction with East Village Bike Night on September 17, 2011. Pending approval of Building Department.

(T) CHRISTOPHERS DINING 2816 BEAVER AVE C Liquor
Temporary in conjunction with Beaverville Fall Festival on September 16 – 17, 2011. Pending approval of Building Department.

(U) GOODSONS 2815 BEAVER AVE C Liquor
Temporary in conjunction with Beaverville Fall Festival on September 16 – 17, 2011. Pending approval of Building Department.

(V) LOCUST TAP 434 E LOCUST ST C Liquor
Temporary in conjunction with East Village Bike Night on September 17, 2011. Pending approval of Building and Fire Departments.

(W) STAR BAR 2811 INGERSOLL C Liquor
Temporary for Art Stop event on September 24, 2011. Pending approval of Building, Electrical and Fire Departments.

~~(X) SUNRISE TAP 4155 EASTON BLVD C Liquor
Permanent outdoor service area. Pending approval of Building, Fire and Zoning Departments.~~

(Y) TALLYS 2712 BEAVER AVE C Liquor
Temporary in conjunction with Beaverville Fall Festival on September 16 – 17, 2011. Pending approval of Building and Fire Departments.

(Z) UNDERGROUND 500 E LOCUST ST C Liquor
Temporary in conjunction with East Village Bike Night on September 17, 2011. Pending approval of Building Department.

SPECIAL EVENTS APPLICATIONS

(AA) CAFE DI SCALA 25 E COURT AVE Five (5) Day License
Class B Beer License for Iowa Latino Heritage Festival on September 17 – 18, 2011. Pending approval of Building and Electrical Departments.

(BB) DES MOINES OKTOBERFEST 103 4TH ST Five (5) Day License
Special Class C (Beer/Wine) Liquor License for Des Moines Eighth Annual Oktoberfest on September 23 – 24, 2011. Pending approval of Building Department.

(CC) DRAKE AREA BUSINESS 2318 UNIVERSITY Five (5) Day License
Class B Beer License for Dog Town Fest on September 24, 2011. Pending approval of Building Department.

(DD) DSM SUSHIBOMB II 4025 TONAWANDA Five (5) Day License
Special Class C (Beer/Wine) Liquor License for event on September 25, 2011. Pending approval of Building Department.

(EE) JORDAN CREEK MAID RITE 4025 TONAWANDA Five (5) Day License
Class C Liquor License for annual Gatsby Gala on September 16, 2011. Pending approval of Building and Zoning Departments.

(FF) JORDAN CREEK MAID RITE 3631 SW 61ST ST Five (5) Day License
Class C Liquor License for and event at Sticks Design Studio on September 24, 2011. Pending approval of Building, Electrical and Fire Departments.

PUBLIC IMPROVEMENTS

- [11-1555](#) 5. [Ordering](#) construction of Public Works Supply Yard Storage Building: Receiving of bids, (9-27-11), Setting date of hearing, (10-10-11). Construction estimate, \$600,000. ([Council Communication No. 11-587](#)) **Moved by Moore to adopt. Motion Carried 7-0.**
- [11-1556](#) 6. [Approving](#) Professional Services Agreement with Ames Environmental, Inc. for asbestos testing and monitoring services for the Country Estates Village Mobile Home Park, not to exceed \$74,800. ([Council Communication No. 11-589](#)) **Moved by Moore to adopt. Motion Carried 7-0.**
- [11-1557](#) 7. [Approving](#) private construction contract between Baker Electric, Inc. and Mercy Medical Center for paving improvements in 5th Avenue near I-235, \$149,775.80. **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1558](#) 8. [Approving](#) private construction contract between Corell Contractor, Inc. and Electro Management Corporation for storm sewer improvements in 1800 E. Hull Avenue, \$6,647. **Moved by Mahaffey to adopt. Motion Carried 7-0.**
9. Approving private construction contracts between Army Post Development, L.C. and the following:
- [11-1559](#) (A) [Sternquist](#) Construction Inc. for paving improvements in Gannett Drive between Register Drive and SW 37th Street, \$51,694.50. **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1560](#) (B) [The](#) Underground Company, Ltd. for storm sewer improvements in Gannett Drive between Register Drive and SW 37th Street, \$77,885. **Moved by Mahaffey to adopt. Motion Carried 7-0.**
10. Accepting completed construction and approving final payment for the following:
- [11-1561](#) (A) [2010](#) Midblock School Signal Upgrade, Baker Electric, Inc. **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1562](#) (B) [7th](#) & Crocker Emergency Combined Sewer Repair, The Underground Company, Ltd. **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1563](#) (C) [MLK](#) Pump Station Emergency Discharge Pipe Repair, The Underground Company, Ltd. **Moved by Mahaffey to adopt. Motion Carried 7-0.**

SPECIAL ASSESSMENTS

- [11-1564](#) 11. [Levying](#) assessments for costs of Nuisance Abatement-NAC Emergency Orders (Community Development) Schedule No. 2011-10. **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1565](#) 12. [Levying](#) assessment for fees, fines, penalties, costs and interest imposed in the enforcement of Neighborhood Inspection Rental Code, Schedule No. 2011-07. **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1566](#) 13. [Approving](#) deletion of NAC-Emergency Assessments at various properties. **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1567](#) 14. [Approving](#) deletion of rental inspection assessment at 1001 Cherry Street. **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1568](#) 15. [Approving](#) delinquent sewer rental and/or solid waste/stormwater utility credits for August 2011. **Moved by Mahaffey to adopt. Motion Carried 7-0.**

LAND/PROPERTY TRANSACTIONS

- [11-1569](#) 16. [Acceptance](#) of real estate documents from Basim and Misty Al-Bakri for the voluntary acquisition of 2830 6th Avenue. ([Council Communication No. 11-591](#)) **Moved by Mahaffey to adopt. Motion Carried 7-0.**

BOARDS/COMMISSIONS/NEIGHBORHOODS

- [11-1570](#) 17. [Recommendation](#) from Council Member Bob Mahaffey to appoint Mary Bertogli to the Housing Services Board, Seat 5, for a three-year term commencing September 12, 2011 to expire June 30, 2014. **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1571](#) 18. [Recommendation](#) from Council Member Skip Moore to appoint Natasha Newcomb to the Neighborhood Revitalization Board, Seat 1, for a three-year term commencing June 30, 2011 to expire June 30, 2014. **Moved by Mahaffey to adopt. Motion Carried 7-0.**

COMMUNICATIONS FROM PLANNING AND ZONING

- [11-1572](#) 19. Regarding request from Jeremy and Jennifer Kerns for vacation of north/south alley between SW 9th Street and SW 12th Street from Virginia Avenue to Pleasant View Drive, subject to conditions. **Moved by Mahaffey to receive and file and refer to the Engineering Department, Real Estate Division. Motion Carried 7-0.**
- [11-1573](#) 20. Regarding request from Wastewater Reclamation Authority (WRA) for vacation of various segments of right-of-way to allow assembly of properties owned by the City and/or WRA, subject to conditions. **Moved by Mahaffey to receive and file and refer to the Engineering Department, Real Estate Division. Motion Carried 7-0.**

SETTING DATE OF HEARINGS

WITHDRAWN

- [11-1574](#) 21. ~~On vacation and conveyance of a small segment of remaining alley right-of-way in the block bound by Vine, Water, Market and SW 2nd Streets to Waterfront Lodging, Inc., (9-26-11).~~
- [11-1575](#) 22. 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), (9-26-11). **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1576](#) 23. 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, (9-26-11). **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1577](#) 24. 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, (9-26-11). Plan and Zoning Commission recommends DENIAL. **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1578](#) 25. On proposed Third (2012) Year Action Plan of the 2010-2014 U.S. Department of Housing And Urban Development (HUD) Consolidated Plan, (10-24-11). **Moved by Mahaffey to adopt. Motion Carried 7-0.**

LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS

- [11-1579](#) 26. [Approving](#) payment of \$2,325 to Peddicord Law Firm for representation of Police Officer Mersed Dautovic. **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1580](#) 27. [Approving](#) payment of \$130,000 to Michael Palik and his attorney for workers' compensation claim. **Moved by Mahaffey to adopt. Motion Carried 7-0.**

APPROVING

- [11-1581](#) 28. [Second](#) revised preliminary terms of Urban Renewal Development Agreement with ND 22 Fleming LLC for the historic adaptive reuse of the Fleming Building at 604 Walnut Street. ([Council Communication No. 11-597](#)) **Moved by Mahaffey to receive, file and approve the 2nd revised preliminary terms of agreement as set forth in Council Communication No. 11-597, and to direct the City Manager to proceed with negotiation of formal agreements with ND 22 Fleming LLC consistent with the terms set forth in Council Communication No. 11-597. Motion Carried 7-0.**
29. Items regarding Southern Meadows Apartments, 2800 SE 8th Street:
- [11-1582](#) (A) [Competitive](#) request for proposals on method of disposition. ([Council Communication No. 11-592](#)) **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1583](#) (B) [Memorandum](#) of Agreement with State Historic Preservation Office to allow for the demolition. ([Council Communication No. 11-593](#)) **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1584](#) 30. [City](#) Manager to negotiate a short-term lease with Life Line Youth Foundation for space at Logan Community Center. ([Council Communication No. 11-594](#)) **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1585](#) 31. [Cooperative](#) Agreement with Iowa Civil Rights Commission for fiscal year ending June 30, 2012. ([Council Communication No. 11-590](#)) **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1586](#) 32. [Iowa](#) Department of Transportation Air Service Sustainment Grant for the Des Moines International Airport, \$20,000. ([Council Communication No. 11-596](#)) **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- [11-1587](#) 32I [Receive](#) and file report from the City Attorney regarding the City Council Taxpayer Quality Assurance Sub-Committee. **Moved by Mahaffey to receive and file. Motion Carried 7-0.**

- [11-1588](#) 33. Authorizing Finance Director to draw checks on registers for weeks of September 12 and September 19, 2011; to draw checks for the bills of the Des Moines Municipal Housing Agency for weeks of September 12 and September 19, 2011; and to draw checks for biweekly payroll due September 23, 2011. **Moved by Mahaffey to adopt. Motion Carried 7-0.**

ORDINANCES - FINAL CONSIDERATION

- [11-1589](#) 34. Amending Chapter 114 of the Municipal Code regarding adding a Commercial Loading Zone –south side of Locust Street, east of 15th Street. **Moved by Mahaffey that this ordinance do now pass, #15,043. Motion Carried 7-0.**

ORDINANCES - SECOND CONSIDERATION

- [11-1590](#) 35. Amending Chapter 114 of the Municipal Code regarding Saturday rates and temporary adjustment of rates in the Municipally-owned parking garages. **Moved by Mahaffey that this ordinance be considered and given second vote for passage. Motion Carried 7-0.**

- [11-1591](#) 36. 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 Mahaffey that this ordinance be considered and given second vote for passage. Motion Carried 7-0.**

- [11-1592](#) 37. Repealing Section 122-2 of the Municipal Code regarding the Municipal Arborist position and reporting. **Moved by Mahaffey that this ordinance be considered and given second vote for passage. Motion Carried 7-0.**

- [11-1593](#) (A) Final consideration of ordinance above (waiver requested by City Manager), requires six votes. **Moved by Mahaffey 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, #15,044. Motion Carried 7-0.**

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

COMMUNICATIONS/REPORTS

- [11-1594](#) 38. From Ned Chiodo, 345 E. Gray Street, to speak regarding his sidewalk being connected to SE 5th Street and Indianola Road under the “High Priority Sidewalk Program.” **Moved by Meyer to receive and file comments; refer to City Manager and Engineering for review and recommendation in 30 days. Motion Carried 7-0.**

HEARINGS (OPEN AT 5:00 P.M.) (ITEMS 39 THRU 43)

- [11-1595](#) 39. On appeal from Kevin Neuwirth, 2920 Kinsey Avenue, regarding Administrative Hearing Officer's decision on impounded vehicle. **Moved by Meyer to uphold decision. Mr. Neuwirth did not appear. Motion Carried 7-0.**
- [11-1596](#) 40. On conveyance of 917 SE Allen Street to Robert L. Conn, \$1,000. ([Council Communication No. 11-586](#)) **Moved by Meyer to adopt. Motion Carried 7-0.**
- [11-1597](#) 41. On request from Neighborhood Development Corporation to rezone 1938 SE 6th Street from Ltd. "C-1A" (Neighborhood Commercial Reuse) to Ltd. "NPC" (Neighborhood Pedestrian Commercial), subject to conditions. **Moved by Meyer to adopt and approve the rezoning, subject to final passage of the rezoning ordinance. Motion Carried 7-0.**
- [11-1598](#) (A) First consideration of ordinance above. **Moved by Meyer that this ordinance be considered and given first vote for passage. Motion Carried 7-0.**
- [11-1599](#) (B) Final consideration of ordinance above (waiver requested by 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, [#15,045](#). Motion Carried 7-0.**
- [11-1600](#) 42. On proposed Zoning ordinance text amendment to Chapter 134 with regard to businesses selling liquor, wine, beer and tobacco. **Moved by Hensley to adopt and approve the Text Amendments to the Municipal Code, subject to final passage of the ordinance. Motion Carried 7-0.**
- [11-1601](#) (A) First consideration of ordinance above. **Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 7-0.**
- [11-1602](#) (B) Final consideration of ordinance above (waiver requested by Community Development), 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, [#15,046](#). Motion Carried 7-0.**
- WITHDRAWN
[11-1603](#) (C) ~~Alternate Resolution to extend temporary moratoriums until October 25, 2011 on the establishment of any freestanding liquor stores in the "C-3", "C-3A", "C-3B" and "C-3R" Districts and the establishment of any businesses engaged in the sale of alcoholic liquors for off premises consumption in the "C-1" District and at any location which has not received conditional use approval from the Zoning Board of Adjustment.~~

[11-1604](#)

43. [On](#) Euclid Avenue Intersection Improvements at 11th Street: Resolution approving plans, specifications, form of contract documents, Engineer's estimate and designating lowest responsible bidder as Concrete Technologies, Inc., (Brad Baumler, President), \$237,313). ([Council Communication No. 11-588](#)) **Moved by Mahaffey to adopt. Motion Carried 7-0.**

[11-1605](#)

- (A) [Approving](#) contract and bond, and permission to sublet. **Moved by Mahaffey to adopt. Motion Carried 7-0.**

****END HEARINGS AT 5:04 P.M.****

EXTRA ITEMS

[11-1606](#)

1. [Setting](#) date of hearing on intent to transfer City of Des Moines aviation facilities to the Des Moines Airport Authority, (10-10-11). Sponsor: Mayor Cownie. **Moved by Hensley to adopt. Motion Carried 7-0.**

[11-1607](#)

MOTION TO ADJOURN. Moved by Griess to adjourn at 5:04 PM. Motion Carried 7-0.