



\*\*\* 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 '18-' 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**  
**City Hall, City Council Chambers**  
**400 Robert D. Ray Drive**  
**Des Moines, Iowa 50309**

November 5, 2018  
4:30 PM

CLOSED SESSION – 3:30 PM, Lower Level, Conference Room 1

- [18-1809](#) (A) Roll Call. **Present: Cownie, Boesen, Gatto, Gray, and Mandelbaum. Absent: Coleman and Westergaard. Council Member Coleman entered the meeting during item C.**
- [18-1810](#) (B) Recess, and reconvene in closed session pursuant to Section 21.5, subsection 1, paragraph C, of the Iowa Code, to discuss necessary strategy with counsel in matters that are presently in litigation or where litigation is imminent, where its disclosure would be likely to prejudice or disadvantage the position of the City. **Moved by Gatto to adopt. Motion Carried Upon Roll Call 5-2. Absent: Coleman and Westergaard.**
- [18-1811](#) (C) Closed Session.
- [18-1812](#) (D) Terminate closed session and reconvene in open session. **Moved by Boesen to adopt. Motion Carried 5-2. Absent: Cownie and Westergaard. Mayor Cownie left the meeting during item C.**
- [18-1813](#) (E) Motion to adjourn. **Moved by Gatto to adjourn at 4:28 PM. Motion Carried 5-2. Absent: Cownie and Westergaard.**

**INVOCATION:** Council Member Gray

- [18-1814](#) 1. **ROLL CALL: Present: Cownie, Boesen, Coleman, Gatto, Gray, Mandelbaum and Westergaard. Council Member Westergaard participated in the meeting by phone. Motion Carried 7-0.**
- [18-1815](#) 2. **APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED: Moved by Gatto to adopt. Motion Carried 7-0.**
- [18-1816](#) 3. **APPROVING CONSENT AGENDA \* – items 3 through 40: Moved by Gatto 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**

- [18-1817](#) 4. **Approving Alcoholic Beverage License Applications for the following: Moved by Gatto to adopt. Motion Carried 7-0. Council Member Coleman votes No on items H and J.**

#### **RENEWAL APPLICATIONS**

(A)	ALDI INC #03	3940 E 14TH STREET	C Beer
(B)	ALDI INC #29	5512 SE 14TH ST	C Beer
(C)	ALDI INC #38	2543 E UNIVERSITY	C Beer
(D)	BIG CITY BURGERS & GREENS	400 LOCUST ST	C Liquor
(E)	CATERING DSM	1011 LOCUST ST	C Liquor
(F)	EVEREST RESTAURANT	6401 SE 14TH ST	C Liquor
(G)	FREMONT	1030 E 9TH ST	C Liquor
* (H)	GIT N GO STORE #19	890 COUNTY LINE	C Beer
(I)	GIT N GO STORE #6	5736 FRANKLIN AVE	C Beer
* (J)	HY VEE GAS #5	1113 E ARMY POST	C Beer
(K)	JEANNIES BOTTLE	3839 MERLE HAY RD	C Liquor
(L)	JESSES EMBERS	3301 INGERSOLL	C Liquor
(M)	KATHMANDU RESTAURANT	4121 SE 14TH ST	C Beer/Wine
(N)	STUFFED OLIVE	208 3RD ST	C Liquor

#### **TRANSFER TO NEW LOCATION**

- (O) HY VEE FOOD #1 3330 MLK JR PKWY E Liquor  
Permanent transfer from 3424 MLK Jr. Pkwy. Pending approval of Building and Zoning Departments.

## SPECIAL EVENT APPLICATIONS

(P) DES MOINES EMBASSY 100 LOCUST ST Five (5) Day License  
Class C Liquor License for an event on November 17, 2018.

(Q) IOWAS PREMIER FOOD 730 3RD ST C Beer  
For Iowa's Premier Food and Wine Expo on November 9 – 10, 2018. Pending approval of Building Department.

[18-1818](#) 4-I [Consideration](#) of new Class C Liquor License for Bah Brazilian Steakhouse, 2301 Ingersoll Avenue, Suite 101. Pending approval of Building and Zoning Departments. **Moved by Gatto to adopt. Motion Carried 7-0.**

[18-1819](#) 5. [City](#) Clerk to issue Cigarette/Tobacco/Nicotine/Vapor Permits. **Moved by Gatto to adopt. Motion Carried 6-1. Nays: Cownie.**

## PUBLIC IMPROVEMENTS

6. Ordering construction of the following:

[18-1820](#) (A) [Sheet](#) Pile Retaining Wall Repair on Trestle to Trestle Trail East of Beaver Avenue: Receiving of bids, (11-20-18), Setting date of hearing, (12-3-18). Engineer's estimate, \$475,000. ([Council Communication No. 18-542](#)) **Moved by Gatto to adopt. Motion Carried 7-0.**

[18-1821](#) (B) [River](#) Bend and King Irving Sewer Separation Phase 2A: Receiving of bids, (11-20-18), Setting date of hearing, (12-3-18). Engineer's estimate, \$5,520,000. ([Council Communication No. 18-543](#)) **Moved by Gatto to adopt. Motion Carried 7-0.**

[18-1822](#) (C) [James](#) W. Cownie Sports Park Signage Improvements: Receiving of bids, (11-20-18), Setting date of hearing, (12-3-18). Engineer's estimate, \$790,000. ([Council Communication No. 18-552](#)) **Moved by Gatto to adopt. Motion Carried 7-0.**

[18-1823](#) 7. [Approving](#) private construction contract between Detrick Excavating Inc. and MDBR Properties LLC for Sanitary and Storm Sewer Improvements in 7600 Fleur Drive. **Moved by Gatto to adopt. Motion Carried 7-0.**

[18-1824](#) 8. [Approving](#) Iowa Department of Transportation (IDOT) agreements for East 30th Street Viaduct over Union Pacific Railroad Rehabilitation. ([Council Communication No. 18-536](#)) **Moved by Gatto to adopt. Motion Carried 7-0.**

[18-1825](#) 9. [Approving](#) Supplemental Agreement No. 1 to the Professional Services Agreement with Snyder & Associates, Inc. for additional design and construction phase services for East Village Street Improvements, not to exceed \$28,440. ([Council Communication No. 18-537](#)) **Moved by Gatto to adopt. Motion Carried 7-0.**

- [18-1826](#) 10. [Communication](#) from contractors requesting permission to sublet certain items on public improvement projects. **Moved by Gatto to adopt. Motion Carried 7-0.**

#### **SPECIAL ASSESSMENTS**

- [18-1827](#) 11. [Levying](#) assessments for fees, fines, penalties, costs and interest imposed in the enforcement of the Neighborhood Inspection Rental Code, Schedule No. 2018-08. **Moved by Gatto to adopt. Motion Carried 7-0.**

- [18-1828](#) 12. [Approving](#) deletion of rental inspection assessment at 4400 Park Avenue. **Moved by Gatto to adopt. Motion Carried 7-0.**

- [18-1829](#) 13. [Approving](#) deletion of NAC-Emergency Assessment at 1612 21st Street. **Moved by Gatto to adopt. Motion Carried 7-0.**

#### **LAND/PROPERTY TRANSACTIONS**

- [18-1830](#) 14. [Authorize](#) voluntary acquisition and to approve and accept real estate documents for property located north of E. Watrous Avenue and west of SE 30<sup>th</sup> Court from George D. and Margaret J. Fischer for the Des Moines River Trail – Phase 2 Project. ([Council Communication No. 18-544](#)) **Moved by Gatto to adopt. Motion Carried 7-0.**

- [18-1831](#) 15. [Releasing](#) Letter of Credit Surety for Brook Run Village Plats 9, 10, 11 and 12 subdivision improvements. ([Council Communication No. 18-549](#)) **Moved by Gatto to adopt. Motion Carried 7-0.**

- [18-1832](#) 16. [Approving](#) Final Subdivision Plat of Bridge District Plat 2, located in the vicinity of the 800 block of E. 2<sup>nd</sup> Street. ([Council Communication No. 18-548](#)) **Moved by Gatto to adopt. Motion Carried 7-0.**

## BOARDS/COMMISSIONS/NEIGHBORHOODS

- [18-1833](#) 17. [Approving](#) the Greater Des Moines Sister Cities Commission recommendation of establishing a Sister City relationship with Pristina, Kosovo. **Moved by Westergaard to adopt. Motion Carried 7-0.**

## COMMUNICATIONS FROM PLANNING AND ZONING

- [18-1834](#) 18. [Regarding](#) Preliminary Plat “DZ Industrial, Plat 1” at 764 NE 47<sup>th</sup> Place, within the two-mile distance for extraterritorial review. **Moved by Gatto to adopt. Motion Carried 7-0.**

- [18-1835](#) 19. [Regarding](#) Preliminary Plat “Kemper Industrial Park” at 4525 NE 14<sup>th</sup> Street, within the two-mile distance for extraterritorial review. **Moved by Gatto to adopt. Motion Carried 7-0.**

## SETTING DATE OF HEARINGS

- [18-1836](#) 20. [On](#) vacation of segments of Locust Street and east-west alley right-of-way adjoining 1416 Locust Street and conveyance of a Permanent Easement for Building Encroachment – Door Swing to Saga Communications of Iowa, LLC d/b/a Des Moines Radio Group for \$1,320, (11-19-18). **Moved by Gatto to adopt. Motion Carried 7-0.**

- [18-1837](#) 21. [On](#) vacation of portions of E. 4<sup>th</sup> Street, Des Moines Street and E. 5<sup>th</sup> Street right-of-way adjoining 415 and 421 Des Moines Street, and conveyance of a Permanent Easement for Subsurface Building Encroachment on City-owned Property to 555 E Fourth Parking, LLC for \$13,830, (11-19-18). **Moved by Gatto to adopt. Motion Carried 7-0.**

- [18-1838](#) 22. [On](#) request from Boyer & Boyer, LLC to rezone 2900 Easter Lake Drive from “R1-90” (Large-Lot One-Family Residential) to Ltd. “C-1” (Neighborhood Retail Commercial) to allow conversion of the existing church to a day care center, (11-19-18). **Moved by Gatto to adopt. Motion Carried 7-0.**

## LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS

- [18-1839](#) 23. [Approving](#) payment to Hansen, McClintock & Riley Law Firm for representation of former Police Officer Joshua Judge, \$7,850. **Moved by Gatto to adopt. Motion Carried 7-0.**

- [18-1840](#) 24. [Payment](#) to Hall & Associates for services related to the Clean Water Act, \$174.31. **Moved by Gatto to adopt. Motion Carried 7-0.**

[18-1841](#) 25. [Retention](#) of Greg R. Brown for representation of Police Officer Kyle Thies. **Moved by Gatto to adopt. Motion Carried 7-0.**

[18-1842](#) 26. [Retention](#) of outside counsel to act as a Guardian Ad Litem. **Moved by Gatto to adopt. Motion Carried 7-0.**

#### CITY MANAGER COMMUNICATIONS

[18-1843](#) 27. [Submitting](#) travel and training requests for Michael Bartak and T.M. Franklin Cownie. ([Council Communication No. 18-553](#)) **Moved by Gatto to adopt. Motion Carried 7-0.**

#### APPROVING

28. Number Not Used.

29. Number Not Used.

[18-1844](#) 30. [First](#) Amendment to Economic Development Assistance Contract with Iowa Economic Development Authority (IEDA) and Krause Holdings, Inc. for the redevelopment of 1459 Grand Avenue. **Moved by Gatto to adopt. Motion Carried 7-0.**

[18-1845](#) 31. [Cooperative](#) Agreement with the Iowa Civil Rights Commission (ICRC). ([Council Communication No. 18-557](#)) **Moved by Gatto to adopt. Motion Carried 7-0.**

[18-1846](#) 32. [Submittal](#) of a grant request to the Polk County Housing Trust Fund for the City of Des Moines Minor Home Repair Program. **Moved by Gatto to adopt. Motion Carried 7-0.**

[18-1847](#) 33. [Seventh](#) Amended and Substituted 28E Agreement and the Amended and Substituted Bylaws for the Des Moines Metropolitan Planning Organization (MPO). ([Council Communication No. 18-558](#)) **Moved by Gatto to adopt. Motion Carried 7-0.**

[18-1848](#) 34. [Agreement](#) with the Nature Conservancy for cooperation on the restoration of an oxbow within Four Mile Creek. ([Council Communication No. 18-550](#)) **Moved by Gatto to adopt. Motion Carried 7-0.**

[18-1849](#) 35. [Communication](#) from Downtown Community Alliance, on behalf of the Meredith Corporation, requesting approval for up to 14 banners to be displayed on 7 poles in downtown Des Moines between 18th and 15th Street for Winter 2019. **Moved by Gatto to receive, file and approve. Motion Carried 7-0.**

[18-1850](#) 36. [Abatement](#) of public nuisance at 2500 E. Leach Avenue. **Moved by Gatto to adopt. Motion Carried 7-0.**

37. Number Not Used.

[18-1851](#)

38. [Authorizing](#) Finance Director to draw checks on registers for the weeks of November 5 and November 12, 2018; to draw checks for the bills of the Des Moines Municipal Housing Agency for the weeks of November 5 and November 12, 2018; and to draw checks for biweekly payroll due November 9, 2018. **Moved by Gatto to adopt. Motion Carried 7-0.**

## ORDINANCES - SECOND CONSIDERATION

[18-1852](#)

39. [Amending](#) Chapter 50 of the Municipal Code regarding floodplain regulations. **Moved by Gatto that this ordinance be considered and given second vote for passage. Motion Carried 7-0.**

[18-1853](#)

(A) [Final](#) consideration of ordinance above (waiver requested by the City Engineer), requires six votes. **Moved by Gatto 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, #15,722. Motion Carried 7-0.**

[18-1854](#)

40. [Amending](#) Chapter 114 of the Municipal Code regarding traffic regulation changes as follows: **Moved by Gatto that this ordinance be considered and given second vote for passage. Motion Carried 7-0.**

(A) Add an on-street handicap parking space – E. 16<sup>th</sup> Street adjacent to 1601 E. Court Avenue.

(B) Restrict on-street parking – south side of Leyden Avenue, east of E. 43<sup>rd</sup> Street.

(C) Removal of parking restrictions in new parking insets on Maple Street, E. 2<sup>nd</sup> Street and E. 4<sup>th</sup> Street.

[18-1855](#)

(D) Final consideration of ordinance above (waiver requested by Council), requires six votes. **Moved by Gatto 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, #15,723. Motion Carried 7-0.**

**ORDINANCES - FIRST CONSIDERATION**

- [18-1856](#) 41. **Amending** Chapter 118 of the Municipal Code regarding regulation of industrial wastewater and commercial wastewater. ([Council Communication No. 18-547](#)) **Moved by Coleman that this ordinance be considered and given first vote for passage. Motion Carried 7-0.**

**COMMUNICATIONS/REPORTS**

- [18-1857](#) 42. **From** Staci Harper-Bennett and Brett Niederhauser with the Des Moines Arts Center to speak regarding sound permits. **Moved by Mandelbaum to receive and file comments and refer to the City Manager and staff to prepare ordinance changes to allow events with sound at the Des Moines Art Center. Motion Carried 7-0.**

**APPROVING**

- [18-1858](#) 42-I **Preliminary** terms of the Third Amended and Restated Urban Renewal Development Agreement with Riverpoint West LLC for the Gray's Landing Project. ([Council Communication No. 18-554](#)) **Moved by Mandelbaum to approve the preliminary terms of amendment as set forth in Council Communication No. 18-554 and to direct the City Manager or his designee to negotiate final terms of agreement for future consideration by the City Council. Motion Carried 7-0.**

- [18-1859](#) 42-II **Preliminary** terms of the First Amendment to the Urban Renewal Development Agreement for the Gray's Station Project. ([Council Communication No. 18-556](#)) **Moved by Mandelbaum to approve the preliminary terms of amendment as set forth in Council Communication No. 18-556 and to direct the City Manager or his designee to negotiate final terms of agreement for future consideration by the City Council. Motion Carried 7-0.**

**HEARINGS (OPEN AT 5:00 P.M.) (ITEMS 43 THRU 52)**

- [18-1860](#) 43. **On** vacation of the east-west and north-south alley rights-of-way located north of Grand Avenue and south of Ingersoll Avenue between 15<sup>th</sup> Street and 16<sup>th</sup> Street and conveyance to 15<sup>th</sup> and Grand Properties, LLC for \$170,000. ([Council Communication No. 18-545](#)) **Moved by Mandelbaum to adopt. Motion Carried 7-0.**

- [18-1861](#) (A) **First** consideration of ordinance above. **Moved by Mandelbaum that this ordinance be considered and given first vote for passage. Motion Carried 7-0.**

- [18-1862](#) (B) Final consideration of ordinance above, requires six votes. **Moved by Mandelbaum 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, #15,724. Motion Carried 7-0.**



- [18-1863](#) 44. **On** corrected vacation of a portion of Van Buren Street right-of-way between SE 4<sup>th</sup> Street and SE 5<sup>th</sup> Street for the SE 4<sup>th</sup> Street and Van Buren Street Storm Water Pump Station Project. **Moved by Gatto to adopt. Motion Carried 7-0.**
- [18-1864](#) (A) **First** consideration of ordinance above. **Moved by Gatto that this ordinance be considered and given first vote for passage. Motion Carried 7-0.**
- [18-1865](#) (B) Final consideration of ordinance above, requires six votes. **Moved by Gatto 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, #15,725. Motion Carried 7-0.**
- [18-1866](#) 45. **On** conveyance of excess City-owned property located at 4200 Hubbell Avenue to Martin J. Ermels and Kathleen Ermels for \$156,448. ([Council Communication No. 18-546](#)) **Moved by Westergaard to adopt. Motion Carried 7-0.**
- [18-1867](#) 46. **On** the proposed 2019 Action Plan for the U.S. Department of Housing and Urban Development (HUD) 2015-2019 Consolidated Plan. ([Council Communication No. 18-551](#)) **Moved by Coleman to adopt. Motion Carried 7-0.**
- [18-1868](#) 47. **Cancelling** hearing on proposed land exchange agreement with River Point West LLC. (Continued from October 22, 2018) **Moved by Mandelbaum to cancel the hearing and terminate action on the proposed Land Exchange Agreement. Motion Carried 7-0.**
- [18-1869](#) 48. **On** proposed Connection Fee Ordinance for Little Four Mile Trunk Sewer System Benefitted District. (Continued from October 22, 2018) **Moved by Gatto to continue to the November 19, 2018 Council Meeting at 5:00 PM. Motion Carried 7-0.**
- [18-1870](#) (A) **First** consideration of ordinance above. **Moved by Gatto to continue to the November 19, 2018 Council Meeting at 5:00 PM. Motion Carried 7-0.**
- [18-1871](#) (B) **Communications** in objection. **Moved by Gatto to continue to the November 19, 2018 Council Meeting at 5:00 PM. Motion Carried 7-0.**

- [18-1872](#) 49. On Four Mile Creek Wetland at E. 34<sup>th</sup> Street and SE 14<sup>th</sup> Street Bioswales: Resolution approving plans, specifications, form of contract documents, Engineer's estimate and designating lowest responsible bidder as MPS Engineers, PC d/b/a Kingston Services PC (Umesh G. Shetye, President), \$395,924.50. ([Council Communication No. 18-538](#)) **Moved by Gatto to adopt. Motion Carried 7-0.**
- [18-1873](#) (A) Approving contract and bond and permission to sublet. **Moved by Gatto to adopt. Motion Carried 7-0.**
- [18-1874](#) 50. On Gray's Station Regional Detention Basin: Resolution approving plans, specifications, form of contract documents, Engineer's estimate and designating lowest responsible bidder as S.M. Hentges & Sons Inc. (Steven M. Hentges, President), \$3,142,975.60. ([Council Communication No. 18-539](#)) **Moved by Mandelbaum to adopt. Motion Carried 7-0.**
- [18-1875](#) (A) Approving contract and bond, and permission to sublet. **Moved by Mandelbaum to adopt. Motion Carried 7-0.**
- [18-1876](#) 51. On Storm Drainage Category D Repair Contract 2: Resolution approving plans, specifications, form of contract documents, Engineer's estimate and designating lowest responsible bidder as TK Concrete Inc. (Tony J. Ver Meer, President), \$272,803. ([Council Communication No. 18-540](#)) **Moved by Gray to adopt. Motion Carried 7-0.**
- [18-1877](#) (A) Approving contract and bond and permission to sublet. **Moved by Gray to adopt. Motion Carried 7-0.**
- [18-1878](#) 52. On MacRae Park Pond Dredging: Resolution approving plans, specifications, form of contract documents, Engineer's estimate and designating lowest responsible bidder as C.J. Moyna & Sons, Inc. (John P. Moyna, President), \$933,055.50. ([Council Communication No. 18-541](#)) **Moved by Mandelbaum to adopt. Motion Carried 7-0.**
- [18-1879](#) (A) Approving contract and bond, and permission to sublet. **Moved by Mandelbaum to adopt. Motion Carried 7-0.**

\*\*\* END OF HEARINGS AT 5:11PM \*\*\*

[18-1880](#) MOTION TO ADJOURN. **Moved by Gatto to adjourn at 5:14 PM. Motion Carried 7-0.**