



***** 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 '22-' 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 7, 2022
5:00 PM

SPECIAL PRESENTATION – 4:45 PM

MidAmerican Energy check presentation.

[22-1705](#)

1. ROLL CALL: **Present: Boesen, Gatto, Mandelbaum, Sheumaker, Voss and Westergaard. Absent: Cownie.**

[22-1706](#)

2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED: **Moved by Voss to adopt. Second by Gatto. Motion Carried 6-1. Absent: Cownie.**

[22-1707](#)

3. APPROVING CONSENT AGENDA * – items 3 through 34: **Moved by Gatto to adopt the balance of the Consent Agenda. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

***Note: These are routine items and will be enacted by one roll call vote without separate discussion unless pursuant to Council rules, Council requests an item be removed to be considered separately.**

LICENSES AND PERMITS

[22-1708](#)

4. [Approving](#) Alcoholic Beverage License Applications for the following: **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

NEW APPLICATION

- (A) FRATERNAL ORDER 6567 BLOOMFIELD RD Class C Liquor

RENEWAL APPLICATIONS

- (B) ALDI INC #03 3940 E 14TH ST Class C Beer
(C) ALDI INC #29 5512 SE 14TH ST Class C Beer
(D) ALDI INC #38 2543 E UNIVERSITY AVE Class C Beer
(E) CASEYS GENERAL STORE #2892 6120 DOUGLAS AVE Class C Beer
(F) CENTERPLATE AT CUB CLUB 1 LINE DR Class C Liquor
(G) CHIPOTLE MEXICAN GRILL 3737 MERLE HAY RD Class C Liquor
(H) CROZ NEST EAST 3801 EASTON BLVD Class C Liquor
(I) FREMONT 1030 E 9TH ST Class C Liquor
(J) GIT N GO STORE #19 890 COUNTY LINE RD Class C Beer
(K) GIT N GO STORE #3 100 WATROUS AVE Class C Beer
(L) GIT N GO STORE #6 5736 FRANKLIN AVE Class C Beer
(M) HESSEN HAUS 101 4TH ST Class C Liquor
(N) HOQ RESTAURANT 303 E 5TH ST Class C Liquor
(O) JEANNIES BOTTLE 3839 MERLE HAY RD Class C Liquor
(P) JESSES EMBERS 3301 INGERSOLL AVE Class C Liquor
(Q) KWIK STAR #1053 4105 HUBBELL AVE Class C Beer
(R) NACHO TEQUILAS 6401 SE 14TH ST Class C Liquor
(S) QUIK TRIP #500 3700 HUBBELL AVE Class E Liquor
(T) QUIK TRIP #534 2945 E UNIVERSITY AVE Class E Liquor
(U) QUIK TRIP #554 901 SW 63RD ST Class E Liquor
(V) SENOR TEQUILA MEXICAN 3411 SE 14TH ST Class C Liquor
(W) WOODYS 2117 E UNIVERSITY AVE Class C Liquor

SPECIAL EVENT APPLICATIONS

- (X) APRES BAR CO 120 E 5TH ST 5 days
CLASS C LIQUOR LICENSE FOR A RECEPTION ON NOVEMBER 19, 2022.

- (Y) KAITLYN FRIDAY 3000 E GRAND AVE 5 days
CLASS C LIQUOR LICENSE FOR A WEDDING ON DECEMBER 3, 2022.

- (Z) YOUR PRIVATE BAR 120 E 5TH ST 5 days
CLASS C LIQUOR LICENSE FOR A WEDDING ON NOVEMBER 12, 2022.

OUTDOOR SERVICE APPLICATION

- (AA) LATIN KING 2200 HUBBELL AVE
PERMANENT.

- [22-1709](#) 5. [City](#) Clerk to issue Cigarette/Tobacco/Nicotine/Vapor Permits. **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

PUBLIC IMPROVEMENTS

6. Ordering construction of the following:

[22-1710](#) (A) [2023](#) Traffic Signal Replacement Contract 2: Receiving of bids, (11-22-22) and Setting date of hearing, (12-12-22), Engineer's estimate, \$650,000. ([Council Communication No. 22-501](#)) **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

[22-1711](#) (B) [Drake](#) Observatory Foundation Repair: Receiving of bids, (11-22-22) and Setting date of hearing, (12-12-22), Engineer's estimate, \$275,000. ([Council Communication No. 22-502](#)) **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

[22-1712](#) (C) [Hamilton](#) Drain Storm Water Improvements Phase 3: Receiving of bids, (11-22-22) and Setting date of hearing, (12-12-22), Engineer's estimate, \$8,340,000. ([Council Communication No. 22-513](#)) **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

[22-1713](#) (D) [Intelligent](#) Transportation System Phase 3: Receiving of bids, (11-15-22) and Setting date of hearing, (12-12-22), Engineer's estimate, \$2,300,000. ([Council Communication No. 22-503](#)) **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

[22-1714](#) 7. [Communication](#) from contractors requesting permission to sublet certain items on public improvement project. **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

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

[22-1715](#) (A) [2019](#) Sewer Repair Contract 1, The Underground Company, Ltd. **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

[22-1716](#) (B) [2021](#) HMA Resurfacing Program Contract 1, OMG Midwest, Inc. d/b/a Des Moines Asphalt & Paving. **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

SPECIAL ASSESSMENTS

- [22-1717](#) 9. **Levying** assessments for costs of Nuisance Abatement-NAC Emergency Orders (Neighborhood Services), Schedule No. 2022-11. **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**
10. Deletion of NAC – Emergency Assessment at the following properties:
- [22-1718](#) (A) **709** Vale Street. **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1719](#) (B) **901** SE 7th Street. **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

BOARDS/COMMISSIONS/NEIGHBORHOODS

11. Number not used.
- [22-1720](#) 12. **Recommendation** from Council Member Connie Boesen to appoint Kelli Soyer to the Greater Des Moines Sister Cities Commission, Seat 4, replacing Vidal Spaine for a five-year term commencing on April 28, 2021, to expire April 28, 2026. **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1721](#) 13. **Recommendation** from Council Member Mandelbaum to reappoint Justin Gross to the Zoning Board of Adjustment, Seat 6, for a five-year term commencing April 1, 2022, and expiring March 31, 2027. **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

COMMUNICATIONS FROM PLANNING AND ZONING

- [22-1722](#) 14. **Regarding** request from Liberty Holdings, Inc. (Jeff Tucker, Officer) for vacation of a 150-foot-long segment of Dixon Court right-of-way located to the north of E. Washington Avenue. **Moved by Gatto to receive and file communication from the Plan and Zoning Commission, and refer to the Engineering Department, Real Estate Division. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

SETTING DATE OF HEARINGS

- [22-1723](#) 15. **On** vacation of a portion of Beaverdale Park, 3333 Adams Avenue, located along the western park boundary, and approval of a Land Exchange Agreement with Steven G. Berry and Linda K. Berry as Trustees of the Steven G. Berry and Linda K. Berry Revocable Trust U/A dated April 16, 2019, (11-21-22). **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1724](#) 16. **On** vacation of a portion of 7th Street, Walnut Street and Mulberry Street right-of-way adjoining 207 7th Street and conveyance of a Permanent Easement for Building Encroachment and a Permanent Easement for Subsurface Building Encroachment to Lawmark, LP, \$102,128, (11-21-22). **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1725](#) 17. **On** conveyance of a portion of vacated SE 4th Street right-of-way adjoining 303 Scott Avenue to OneSpeed DSM, LLC, \$45,400, (11-21-22). **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1726](#) 18. **On** conveyance of a portion of vacated SE 2nd Street right-of-way adjoining 303 Scott Avenue to OneSpeed DSM, LLC, \$17,400, (11-21-22). **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1727](#) 19. **On** request from ILEX Group, Inc. (Ben Schultes, Officer) for property located in the vicinity of 4600 E. 14th Street, to amend PlanDSM Creating Our Tomorrow Plan to assign the Industrial within a Community Node future land use classification for the property and to rezone the property from “A” Agriculture District to “I1” Industrial District, to allow development of an industrial use in coordination with the property adjacent to the west, (11-21-22). **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1728](#) 20. **On** request from Electrical Workers Foundation (Patrick Wells, Officer) for property located at 850 18th Street to rezone the property from “RX1” Mixed Use District and “NX2a” Neighborhood Mix District to “RX1” Mixed Use District to allow reuse of the existing building for a medical office use, (11-21-22). **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1729](#) 21. **On** request from City of Des Moines and Board of Water Works Trustees (Ted Corrigan, Officer) for property located in the vicinity of 2508 George Flagg Parkway to amend PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Business Park to Industrial and to rezone the property from “EX” Mixed Use District to limited “I1” Industrial District to allow outdoor storage that would be accessory to an office and garage building, (11-21-22). **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

[22-1730](#)

22. [On](#) request from Sheldon Roney (Owner) for property located at 1626 E. Park Avenue to amend PlanDSM Creating Our Tomorrow Plan to revise the future land use classification from Low Density Residential Use to Community Mixed Use and to rezone the property from “N3a” Neighborhood District to “MX3” Mixed Use District to allow the use of an accessory structure for a motor vehicle repair business, (11-21-22). **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS

[22-1731](#)

23. [Approving](#) retention of outside counsel to act as guardian ad litem. **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

APPROVING

[22-1732](#)

24. [Community](#) Development Block Grant (CDBG) agreement with Professor Holdings, LLC for rehabilitation costs including foundation and exterior repairs at 1065 and 1067 21st Street, \$80,000. ([Council Communication No. 22-511](#)) **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

[22-1733](#)

25. [Grant](#) application and subsequent grant agreement with Polk County Housing Trust Fund (PCHTF) for Owner-Occupied Repair Projects, \$150,000. ([Council Communication No. 22-508](#)) **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

[22-1734](#)

26. [Borrow](#) Site Agreement with the Des Moines Airport Authority for removal of excess fill dirt for levee projects. ([Council Communication No. 22-506](#)) **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

27. Number not used.

[22-1735](#)

28. [Acceptance](#) of the 2022 Supporting Law Enforcement Agencies in Seeking Accreditation grant award through the Community Oriented Policing Services (COPS) Office, \$239,677.25. ([Council Communication No. 22-510](#)) **Moved by Gatto to adopt. Second by Boesen. Motion Carried 5-1-1. Nays: Sheumaker. Absent: Cownie.**

[22-1736](#)

29. [Adopting](#) amended Schedule of Fees for cemeteries under Chapter 34 of the City Code. ([Council Communication No. 22-505](#)) **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

[22-1737](#)

30. [Additional](#) funds for purchase of sewer replacement services from Waldinger Corporation per State of Iowa Master Agreement for use by the Facilities Division, \$20,000. **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**

- [22-1738](#) 31. **Additional** funds for annual agreement with Bituminous Materials & Supply to furnish emulsified asphalt materials to be used by the Public Works Department, \$150,000. (**Council Communication No. 22-504**) **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1739](#) 32. **Procurement** from Galls LLC (Michael Wessner, CEO) for uniform and alteration services per State of Iowa Master Agreements for use by the Police Department, estimated annual cost \$125,000. (**Council Communication No. 22-514**) **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1740](#) 33. **Fund** Transfer Resolution of the City of Des Moines (FY 2022). **Moved by Gatto to adopt. Seconded by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1741](#) 34. **Authorizing** Finance Director to draw checks on **registers** for the weeks of November 7 and 14, 2022; to draw checks for the **bills** of the Des Moines Municipal Housing Agency for the weeks of November 7 and 14, 2022; to draw checks for biweekly payroll due November 18, 2022. **Moved by Gatto to adopt. Seconded by Boesen. Motion Carried 6-1. Absent: Cownie.**

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

ORDINANCES - FIRST CONSIDERATION

- [22-1742](#) 35. **Amending** Chapter 114 of the Municipal Code regarding Traffic Regulation Changes as follows: (**Council Communication No. 22-500**) **Moved by Voss that this ordinance be considered and given first vote for passage. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**
 - (A) Code correction to update parking restriction on Boyd Street east of E. 14th Street due to prior street vacation.
 - (B) Two-way designation - St. Johns Road between 35th Street and 34th Street.
 - (C) Corner Clearances:
 - (1) E. 12th Street and E. Grand Avenue.
 - (2) Sampson Street and E. Sheridan Avenue.
 - (3) E. Wall Avenue and SE 2nd Street.
 - (D) Final consideration of ordinance above, requires six votes. **Moved by Voss 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, #16,194. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1743](#)

HEARINGS (OPEN AT 5:00 P.M.) (ITEMS 36 THRU43)

- [22-1744](#) 36. **On** vacation of alley right-of-way located at 601 E. University Avenue within Burke Park and dedication of the property as parkland. **Moved by Westergaard to adopt. Second by Voss. Motion Carried 6-1. Absent: Cownie.**
- [22-1745](#) (A) **First** consideration of ordinance above. **Moved by Westergaard that this ordinance be considered and given first vote for passage. Seconded by Voss. Motion Carried 6-1. Absent: Cownie.**
- [22-1746](#) (B) **Final** consideration of ordinance above (waiver requested by Ben Page, Parks and Recreation Director), requires six votes. **Moved by Westergaard 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, #16,195. Seconded by Voss. Motion Carried 6-1. Absent: Cownie.**
- [22-1747](#) 37. **On** vacation of E. Jefferson Avenue right-of-way and conveyance, along with additional excess City property all located south of and adjoining 1700 Dixon Street to JSB Fiontair, LLC, \$5,000. **Moved by Westergaard to adopt. Second by Gatto. Motion Carried 6-1. Absent: Cownie.**
- [22-1748](#) (A) **First** consideration of ordinance above. **Moved by Westergaard that this ordinance be considered and given first vote for passage. Seconded by Gatto. Motion Carried 6-1. Absent: Cownie.**
- [22-1749](#) (B) Final consideration of ordinance above, requires six votes. **Moved by Westergaard 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, #16,196. Seconded by Gatto. Motion Carried 6-1. Absent: Cownie.**
- [22-1750](#) 38. **On** vacation of E. Jefferson Avenue right-of-way adjoining 1626 Dixon Street, 1730 E. Washington Avenue and 1637 E. 17th Street and conveyance of a portion of said vacated street right-of-way to Liberty Holdings, Inc., \$13,725, continued from the October 3, 2022 Council Meeting. **Moved by Westergaard to adopt. Seconded by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1751](#) (A) **First** consideration of ordinance above. **Moved by Westergaard that this ordinance be considered and given first vote for passage. Seconded by Boesen. Motion Carried 6-1. Absent: Cownie.**

- [22-1752](#) (B) **Final** consideration of ordinance above (waiver requested by Liberty Holdings, Inc.), requires six votes. **Moved by Westergaard 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, #16,197. Seconded by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1753](#) 39. **On** the proposed Second Amendment to the Urban Renewal Plan for the Oak Park-Highland Park Urban Renewal Area. ([Council Communication No. 22-515](#)) **Moved by Westergaard to adopt. Second by Gatto. Motion Carried 6-1. Absent: Cownie.**
- [22-1754](#) 40. **On** the proposed Third Amendment to the Urban Renewal Plan for the 38th and Grand Urban Renewal Area. ([Council Communication No. 22-517](#)) **Moved by Boesen to adopt. Second by Gatto. Motion Carried 6-1. Absent: Cownie.**
- [22-1755](#) (A) **First** consideration of ordinance “38th and Grand TIF District No. 3”. **Moved by Boesen that this ordinance be considered and given first vote for passage. Second by Gatto. Motion Carried 6-1. Absent: Cownie.**
- [22-1756](#) (B) **Final** consideration of ordinance above (waiver requested by Mike Ludwig, Interim Development Services Director), requires six votes. **Moved by Boesen 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, #16,198. Second by Gatto. Motion Carried 6-1. Absent: Cownie.**
- [22-1757](#) 41. **On** the proposed Urban Renewal Plan for the Southeast 14th Street Urban Renewal Area. ([Council Communication No. 22-516](#)) **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1758](#) (A) **Resolution** of necessity for the Southeast 14th Street Urban Renewal Area. **Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.**
- [22-1759](#) 42. **On** appeal by First Assembly of God Church (Jeffrey Ostrander, Officer) of denial of a Type 2 Design Alternative for a Site Plan “Reach Church Building and Site Improvements” for property at 2725 Merle Hay Road. **Moved by Sheumaker, second by Voss to DENY the Type 2 Design Alternative, and thus uphold the denial by the Plan and Zoning Commission, and to make the following findings of fact in support of denial of the proposed Site Plan and Type 2 Design Alternative: 1. Municipal Code Section 135-4.5.5(B) requires rooftop mechanical equipment, if not screened by the roof design, to be screened by architectural-quality metal screening material that is equal to the height of the equipment on all sides. 2. Municipal Code Section 135-4.5.5(B) further requires equipment to be set back from the edge of the roof so that it and the screening material are not visible from any adjoining right-of-way. 3. Screening for rooftop mechanical equipment diminishes negative visual impacts from adjacent properties and the right-**

of-way, and generally preserves building design quality. 4. Rooftop mechanical equipment screening also helps to abate negative auditory impacts that result from large appurtenances such as condensers, fans, generators, and the like that are frequently located on building rooftops. 5. Commercial-grade mechanical equipment is frequently cited as a noise pollutant in urban environments. 6. Some of the existing and proposed rooftop units sit approximately 70 to 100 feet away from abutting residential properties. 7. Environmental studies in other jurisdictions such as San Jose and Ontario, CA have found that perceptible auditory impacts of commercial-grade rooftop mechanical equipment can occur at this distance. 8. Building permits have not been applied for yet, but preliminary information has indicated that the project has a budget of approximately \$9,600,000. The applicant has provided a cost estimate of \$120,000 to screen the rooftop units, which represents 1.2% of the total cost. 9. Owner has not met the burden required to demonstrate that the requested design alternative meet the criteria for approval or that the result of the design alternative would equal or exceed result of compliance with the relevant sections of the Municipal Code. 10. Owner has not shown that its requested design alternative are consistent with all relevant purpose and intent statements of the Planning and Design Ordinance and with the general purpose and intent of the comprehensive plan. 11. Owner has not shown that the requested design alternative will not have a substantial or undue adverse effect on the public health, safety, and general welfare. 12. The Type 2 Design Alternative as proposed by Owner should not be approved for the reasons stated above. Motion Carried 4-2-1. Nays: Boesen and Gatto. Absent: Cownie.

[22-1760](#)

43. [On](#) Proposed 2023 Action Plan as part of the 2020-2024 Consolidated Plan for submission to the U.S. Department of Housing and Urban Development (HUD). ([Council Communication No. 22-512](#)) Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.

****END HEARINGS AT 5:39 PM****

COMMUNICATIONS/REPORTS

[22-1761](#)

44. [Requests](#) to speak as follows: Moved by Gatto to receive and file. Second by Sheumaker. Motion Carried 6-1. Absent: Cownie.

- (A) Adam Callanan
- (B) Bridget Botkin – Did not speak.
- (C) Sam Davis

[22-1762](#)

MOTION TO ADJOURN. Moved by Gatto to adjourn at 5:47 PM. Second by Westergaard. Motion Carried 6-1. Absent: Cownie.