

**DES MOINES CITY COUNCIL MEETING  
City Hall, City Council Chambers  
400 Robert D. Ray Drive  
Des Moines, Iowa 50309**

**December 2, 2019  
4:30 PM**

**I. CLOSED SESSION – 3:30 PM City Council Chambers**

- (A) Roll Call.
- (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.
- (C) Closed Session.
- (D) Terminate closed session and reconvene in open session.
- (E) Motion to adjourn.

\* \* \* \* \*

**INVOCATION:** Council Member Westergaard

1. ROLL CALL:
2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED:
3. APPROVING CONSENT AGENDA \* – items 3 through 32:

**\*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

### 4. [Approving](#) Alcoholic Beverage License Applications for the following:

#### NEW APPLICATIONS

- |     |                       |                   |             |
|-----|-----------------------|-------------------|-------------|
| (A) | DES MOINES UNIVERSITY | 3200 GRAND AVE    | C Beer/Wine |
| (B) | DRAGON HOUSE EAST     | 2470 E EUCLID AVE | C Beer/Wine |
| (C) | GAMEDAY               | 3800 MERLE HAY RD | C Liquor    |

#### RENEWAL APPLICATIONS

- |                |                         |                           |                     |
|----------------|-------------------------|---------------------------|---------------------|
| (D)            | BUFFALO WILD WINGS      | 3311 SE 14TH ST           | C Liquor            |
| (E)            | COMFORT INN & SUITES    | 929 3RD ST                | B Liquor            |
| <del>(F)</del> | <del>DISTRICT</del>     | <del>216 COURT AVE</del>  | <del>C Liquor</del> |
| (G)            | EASTGATE LAUNDROMAT     | 1424 E OVID AVE           | B Beer              |
| (H)            | EXTRA INNINGS           | 1500 SE 1ST ST            | C Liquor            |
| (I)            | FELIX & OSCARS          | 4050 MERLE HAY RD         | C Liquor            |
| (J)            | FONGS PIZZA             | 223 4TH ST                | C Liquor            |
| (K)            | HY VEE FOOD STORE #2    | 2540 E EUCLID AVE         | E Liquor            |
| (L)            | MURPHYS                 | 1922 HUBBELL AVE          | C Liquor            |
| (M)            | QUIJANOS BAR & GRILL    | 1930 SE 6TH ST            | C Liquor            |
| (N)            | QUIK TRIP #523R         | 849 ARMY POST RD          | C Beer              |
| (O)            | QUIK TRIP #535          | 1501 E GRAND AVE          | C Beer              |
| (P)            | SKIPS                   | 4000 FLEUR DR             | C Liquor            |
| (Q)            | SMOKE SHOP              | 1918 SE 14TH ST           | E Liquor            |
| (R)            | TASTE! TO GO & CATERING | 322 E COURT AVE           | C Liquor            |
| (S)            | TRIANGLE TAP            | 2506 POST ST              | C Liquor            |
| (T)            | TUMEA AND SONS          | 1501 SE 1ST ST            | C Liquor            |
| <del>(U)</del> | <del>WAVERLY</del>      | <del>2120 INGERSOLL</del> | <del>C Liquor</del> |

#### TRANSFER TO NEW LOCATION

- |     |                    |                  |          |
|-----|--------------------|------------------|----------|
| (V) | ELWELL FAMILY FOOD | 3000 E GRAND AVE | C Liquor |
|-----|--------------------|------------------|----------|
- Temporary to the Walnut Center for an event on December 6, 2019.

#### SPECIAL EVENT APPLICATIONS

- |     |                       |                  |   |
|-----|-----------------------|------------------|---|
| (W) | BARATTAS              | 519 PARK ST      | Five (5) Day License<br>Class C Liquor License for Iowa Department of Cultural Affairs event on December 13, 2019.  |
| (X) | GATEWAY MARKET        | 4025 TONAWANDA   | Five (5) Day License<br>Class C Liquor License for events on December 12 – 13, 2019.                                |
| (Y) | HARKEN TROYER WEDDING | 3000 E GRAND AVE | Five (5) Day License<br>Class C Liquor License for a wedding on December 21, 2019.                                  |
| (Z) | SALISBURY HOUSE       | 4025 TONAWANDA   | Five (5) Day License<br>Special Class C Liquor License (Beer/Wine) for a Holiday Concert Feat on December 10, 2019. |

5. [City](#) Clerk to issue Coin Operated Machine Licenses.

## **PUBLIC IMPROVEMENTS**

6. Ordering construction of the following:
  - (A) [E.](#) 30<sup>th</sup> Street Bridge Rehabilitation over UPRR: Receiving of bids, (12-17-19), Setting date of hearing, (1-13-20). Engineer's estimate, \$6,034,710.  
  
([Council Communication No. 19-514](#))
  - (B) [42<sup>nd</sup>](#) Street Reconstruction from Grand Avenue to Pleasant Street: Receiving of bids, (12-17-19), Setting date of hearing, (1-13-20). Engineer's estimate, \$825,000.  
  
([Council Communication No. 19-515](#))
  - (C) [Market](#) District Sanitary Sewer and Force Main: Receiving of bids, (12-17-19), Setting date of hearing, (1-13-20). Engineer's estimate, \$2,900,000.  
  
([Council Communication No. 19-519](#))
7. [Approving](#) Professional Services Agreement with JEO Consulting Group, Inc. for professional services for Indianola Avenue Reconstruction – E. Army Post Road to Highway 69, not to exceed \$395,810.  
  
([Council Communication No. 19-518](#))
8. [Approving](#) Professional Services Agreement with Stanley Consultants, Inc. for professional services for Dean Avenue Reconstruction – E. 26th Street to Redhead Road, not to exceed \$176,918.  
  
([Council Communication No. 19-516](#))
9. [Approving](#) Supplemental Agreement No. 1 with Veenstra & Kimm, Inc. for additional design and construction phase services for Market District Sanitary Sewer Improvements, not to exceed \$42,998.  
  
([Council Communication No. 19-520](#))
10. [Approving](#) Change Order No. 6 with Corell Contractor, Inc. for additional work on Hubbell Avenue Reconstruction from E. Euclid Avenue to east of E. 38th Street, in the amount of \$298,000.01.  
  
([Council Communication No. 19-517](#))

11. Approving completion and acceptance of private construction contracts for the following:
  - (A) [Storm](#) Sewer Improvements, 5801 Hickman Road, between Gator Excavating, Inc. d/b/a Absolute Infrastructure and Hy-Vee, Inc.
  - (B) [Storm](#) Sewer Improvements, Parkside Estates, between Underground Company, Ltd. and Solid Ground, LLC.
  - (C) [Storm](#) Sewer Improvements, 420 Walnut Street, between Corell Contractor, Inc. and 5<sup>th</sup> and Walnut Parking, LLC.
  - (D) [Storm](#) Sewer Improvements, 555 E. 4<sup>th</sup> Street, between Corell Contractor, Inc. and 555 E Fourth Parking, LLC.
12. [Communication](#) from contractors requesting permission to sublet certain items on public improvement projects.
13. Accepting completed construction and approving final payment for the following:
  - (A) [Storm](#) Drainage Category D Repair Contract 1, Synergy Contracting, LLC.
  - (B) [59<sup>th</sup>](#) and 62<sup>nd</sup> Streets at Douglas Avenue Traffic Signal Replacements, Baker Electric, Inc.

#### **SPECIAL ASSESSMENTS**

14. [Levying](#) assessments for fees, fines, penalties, costs and interest imposed in the enforcement of the Neighborhood Inspection Rental Code, Schedule No. 2019-12.

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

15. [Acceptance](#) of Planned Unit Development (PUD) restoration bond for grading work at Three Lakes Estates II – Plat 7 Development Plan, in the vicinity of 2915 Brockway Drive.  

[\(Council Communication No. 19-511\)](#)
16. [Approving](#) final subdivision plat of Cityview 49 Final Plat, located in the vicinity of 938 12<sup>th</sup> Street.  

[\(Council Communication No. 19-510\)](#)
17. [Approving](#) tax abatement applications for the additional value added by improvements completed during 2019 (181 applications).  

[\(Council Communication No. 19-506\)](#)

## **BOARDS/COMMISSIONS/NEIGHBORHOODS**

18. [Communication](#) from Seth Johnson advising of his resignation from the Neighborhood Revitalization Board, Seat 13, effective immediately.
- 18-I [Approving](#) appointments for Calendar Year 2020 to the Metropolitan Planning Organization (MPO) and the Transportation Technical Committee (TTC). Sponsor: Mayor Cownie.

## **SETTING DATE OF HEARINGS**

19. [On](#) conveyance of excess City property south of and adjoining 1530 E. McKinley Avenue to Galinsky Family Real Estate, LLC and Alviv Properties, LLC, \$2,960, (12-16-19).
20. [On](#) conveyance of vacated alley right-of-way west of and adjoining 3844 6<sup>th</sup> Avenue to Daniel R. Burkle, \$25, (12-16-19).
21. [On](#) Second Amendment to Service Agreement and Lease with Metro Waste Authority for operation of a program for the collection and processing of yard waste materials to correct a scrivener's error, (12-16-19).
22. [On](#) issuance of a replacement quit claim deed conveying a portion of vacated Bryant Street right-of-way to Benny Genovese and Diane Marie Renzo, (12-16-19).

## **LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS**

23. [Approving](#) payment to Equian on behalf of Auto Owners Insurance Company as subrogee for Shayna Newman for a property claim.
24. [Approving](#) payment to Brian McKenzie for a workers' compensation claim.
25. [Approving](#) payment to Whitfield and Eddy Law for representation of Police Officer Kyle Thies.

## **CITY MANAGER COMMUNICATIONS**

26. [Submitting](#) travel and training request for Jonathan Lund.

[\(Council Communication No. 19-512\)](#)

**APPROVING**

- 27. [Neighborhood](#) Finance Corporation’s (NFC) 2020 Lending Areas.

([Council Communication No. 19-509](#))

- 28. [Execution](#) of Cooperative Agreement with the Iowa Civil Rights Commission.

([Council Communication No. 19-522](#))

- 29. [Appointment](#) of Chief of Police Dana Wingert and Superintendent of Technical Services Michele Bischof as the primary members and Communications Section Administrator Bradley Button and Assistant Fire Chief Todd Francisco as the alternate members to the Joint E911 Service Board.

- 30. Purchases from the following:

- (A) [Horton](#) Emergency Vehicles (Tim Sullivan, President and CEO), as sole area-wide distributor, for the repair of Medic 9 ambulance for use by the Fire Department, \$129,815.

([Council Communication No. 19-507](#))

- (B) [Hewlett-Packard](#) Company (Dion Weisler, President) for replacement of employee desktop personal computers for fiscal year 2020 per State of Iowa Contract for use by the IT Department, additional funding of \$28,665.

([Council Communication No. 19-521](#))

- (C) [Foster](#) and Freeman (Dave Tobin, President), for replacement of a forensic camera system for use by the Police Department, using 2019 forfeiture funds of \$66,948.50.

([Council Communication No. 19-513](#))

- 31. [Civil](#) Service entrance list for Electrician-Instrument Technician and promotional lists for Medium Equipment Operator and Senior Police Officer.

- 32. [Authorizing](#) Finance Director to draw checks on registers for the weeks of December 2 and 9, 2019; to draw checks for the bills of the Des Moines Municipal Housing Agency for the weeks of December 2 and 9, 2019; and to draw checks for biweekly payroll due December 6, 2019.

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

## ORDINANCES - FIRST CONSIDERATION

33. Number not used.
34. Number not used.
35. [Amending](#) Chapter 62 of the Municipal Code relating to human rights and the procedure for processing complaints.

[\(Council Communication No. 19-523\)](#)

- (A) [Final](#) consideration of ordinance above (waiver requested by Joshua Barr, Civil and Human Rights Department Director), requires six votes.
- (B) [Approving](#) amending rules and regulations of Civil and Human Rights Commission regarding subcommittees and appeals of ministerial and administrative case closures.

## APPROVING

36. [Review](#) of Zoning Board of Adjustment decision granting a variance from separation requirements to allow 3104 University Avenue (Kum & Go, LC) to sell liquor, wine and beer. (**Choose one alternative A, B or C**)

[\(Council Communication No. 19-508\)](#)

- (A) The City Council remands the Decision and Order to the Zoning Board of Adjustment for further study. The effective date of the Board's decision will be deferred for 30 days from the date of this remand.
- (B) The City Council takes no action to review the Decision and Order. The decision of the Board will become final on December 23, 2019.
- (C) The City Council declines to remand the decision to the Zoning Board of Adjustment. The decision of the Board becomes final on this date.

**HEARINGS (OPEN AT 5:00 P.M.) (ITEMS 37 THRU 47)**

37. On vacation of segments of E. 3<sup>rd</sup> Street, E. Walnut Street and alley right-of-way adjoining 304 E. Walnut Street and conveyance of a Permanent Easement for Subsurface Building Encroachment on City-owned Property to Swaps Cash, LLC, \$8,000.
- (A) First consideration of ordinance above.
- (B) Final consideration of ordinance above (waiver requested by applicant), requires six votes.
38. On vacation of segments of Tuttle Street and SW 12<sup>th</sup> Street right-of-way and conveyance of a Permanent Easement for Air Space Above City-owned Property and a Permanent Easement for Subsurface Building Encroachment on City-owned Property to Fusion Apartments, LLC, \$6,650.
- (A) First consideration of ordinance above.
- (B) Final consideration of ordinance above (waiver requested by applicant), requires six votes.
39. On vacation of the east-west alley right-of-way located north of and adjoining 1821 Ingersoll Avenue and conveyance to Lutheran Church of Hope, \$28,000.
- (A) First consideration of ordinance above.
- (B) Final consideration of ordinance above (waiver requested by applicant), requires six votes.
40. On vacation of the east-west alley right-of-way located south of and adjoining 3104 University Avenue and conveyance to Kum & Go, LC, \$22,660.
- (A) First consideration of ordinance above.
- (B) Final consideration of ordinance above (waiver requested by applicant), requires six votes.
41. On vacation of the north-south alley right-of-way located east of and adjoining 2944 Des Moines Street and conveyance to Greater Iowa Credit Union, \$4,290.
- (A) First consideration of ordinance above.
- (B) Final consideration of ordinance above (waiver requested by applicant), requires six votes.



42. [On](#) conveyance of a Permanent Easement for Air Space Above City-owned Property in a 13-foot by 41-foot segment of vacated north-south alley right-of-way located west of and adjoining 1011 Locust Street to The Temple Partners, LP, \$100.
43. [On](#) conveyance of excess City-owned property acquired as part of the 2018 Limited Voluntary Flood Buyout located at 2617 48th Place to Brent Millis for sideyard purposes only, \$250.
44. [On](#) request from River Point West, LLC to amend the PUD Conceptual Plan for 205 SW 11<sup>th</sup> Street to allow the development of a 3-story office building with 68,000 square feet of office and 4,500 square feet of restaurant space with associated surface parking.
45. [On](#) request from Iowa Laborers Education and Training Trust Fund to amend the PUD Conceptual Plan for property in the vicinity of 4500 Hubbell Avenue to allow development of 7.12 acres to be developed with a building for a training center and equipment storage as well as an outdoor training site.
46. Items regarding amendments to Zoning Ordinance:
  - (A) [To](#) amend the existing PlanDSM: Creating Our Tomorrow Plan future land use designation from Industrial to Neighborhood Mixed Use (3851 Delaware Avenue).
  - (B) [Hearing](#) on amendments to Zoning Ordinance, Planning and Design Ordinance and Citywide Zoning Map.
  - (C) [First](#) consideration of amendments to the Zoning Ordinance.
  - (D) [First](#) consideration of amendments to the Planning and Design Ordinance.
  - (E) [First](#) consideration of amendments to the Citywide Zoning Map.
47. [Dismissing](#) hearing regarding request from 50<sup>th</sup> and Douglas, LLC (Matt Connolly, Officer) to rezone property located in the vicinity of 3905 50<sup>th</sup> Street. (**Continued from August 5, 2019**).

\*\*\*END HEARINGS AT \_\_\_\_\_PM\*\*\*

MOTION TO ADJOURN.

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