



Roll Call Number

25-0548

Agenda Item Number

58A

Date April 7, 2025

A RESOLUTION WAIVING PRIVILEGE LIMITED TO THE FIRST PARAGRAPH ON PAGE 6 OF A CONFIDENTIAL LEGAL OPINION TO COUNCIL MEMBER VOSS WRITTEN OCTOBER 28, 2024 AND DIRECTING THE CITY CLERK TO PROVIDE COPIES OF THE PARAGRAPH TO THE MEDIA AND THE PUBLIC UPON REQUEST

WHEREAS, in accordance with Iowa Code Section 364.3(1) a City Council can only act corporately by the passage of a motion, resolution, amendment, or an ordinance and individual council members may not so act; and

WHEREAS, an opinion related to a potential conflict of interest was requested of the Legal Department by Council Member Voss and such opinion was provided on October 28, 2024; and

WHEREAS, such opinion is clearly protected by attorney-client privilege and is treated subject to attorney client privilege protections pursuant to Horsfield Materials, Inc. v. City of Dyersville, 834 N.W.2d 444 (2013), and that privilege can only be waived corporately by the City Council and the City Council has determined to waive such privilege only with respect to the first paragraph on page 6 of the written opinion to Council Member Voss from the Legal Department dated October 28, 2024 and in all other respects the remainder of the opinion shall be and remain confidential and privileged.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

That the City Council hereby waives its attorney-client privilege only as to the first paragraph on page 6 of the written opinion to Council Member Voss on October 28, 2024 by the Legal Department and the City Clerk is hereby directed to make copies of such paragraph available to the media or the public without charge upon request.

BE IT FURTHER RESOLVED that any and all other attorney-client privileges are not waived with respect to the remainder of the opinion and all other opinions and documents subject to such privilege are maintained and held confidential.

Moved by Mandelbaum to adopt. Second by Westergaard

Approved as to form:

[Signature of Jeffrey D. Lester]

Jeffrey D. Lester, City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include BOESEN, SIMONSON, VOSS, COLEMAN, WESTERGAARD, MANDELBAUM, GATTO, and TOTAL (3 YEAS, 4 NAYS).

MOTION FAILED

[Signature of Connie Boesen] Mayor

CERTIFICATE

I, LAURA BAUMGARTNER, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

[Signature of Laura Baumgartner] City Clerk