

October 5, 2015

West Des Moines City Council Proceedings
Monday, October 5, 2015

Mayor Steven K. Gaer opened the regularly scheduled meeting of the City Council of West Des Moines, Iowa, in the Council Chambers of the West Des Moines City Hall on Monday, October 5, 2015 at 5:30 PM. Council members present were: R. Messerschmidt, J. Mickelson, J. Sandager, K. Trevillyan, and R. Trimble.

On Item 1. Agenda. It was moved by Trimble, second by Sandager approve the agenda as presented.

Vote 15-417: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 2. Public Forum: No one came forward.

On Item 3. Council/Manager/Other Entities Reports:

Council member Trimble reported the Finance and Administration Subcommittee met and discussed the replacement of two copiers at Public Safety Stations 18 and 22, a proposed amendment to the development agreement with Shive-Hattery, the removal of the microchip discount for Westpet licenses, and changes to Government Accounting Standards Board (GASB) requirements. He also attended a meeting of the Public Safety Subcommittee, where discussion was held on the CAD RMS update and CPR training in schools. He noted the Fire Department's open house and pancake breakfast will be held on Saturday, October 10th. He also reported he and Council member Messerschmidt attended the firefighter memorial service, honoring former volunteer firefighter Bob Waldron.

Council member Messerschmidt reported he attended the Public Works Subcommittee meeting, where discussion was held on the long-term replacement of Mid-American streetlights with LED lights.

City Manager Tom Hadden reported the 2015 Special Census is approximately 90 percent completed, and he expressed appreciation to the residents for their participation.

Mayor Gaer reported he attended the Sunday Supper in our Town fundraiser for WDM Human Services, which was well attended and is estimated to have raised as much as \$50,000.

On Item 4. Consent Agenda.

Council members pulled Items 4(i) and 4(j)2 for discussion. It was moved by Sandager, second by Messerschmidt to approve the consent agenda as amended.

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- a. Approval of Minutes of September 21, 2015 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 - 1. Apple Corps, L.P., d/b/a Applebee's Neighborhood Grill & Bar, 6190 Mills Civic Parkway - Class LC Liquor License with Sunday Sales - Renewal
 - 2. Casey's Marketing Company d/b/a Casey's General Store #2297, 108 8th Street - Class BC Permit with Sunday Sales - Renewal
 - 3. CEC Entertainment, Inc. d/b/a Chuck E. Cheese's #958, 1431 22nd Street - Class BB Permit with Sunday Sales - Renewal
 - 4. Costco Wholesale Corporation d/b/a Costco Wholesale #788, 7205 Mills Civic Parkway - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
 - 5. Des Moines Golf and Country Club d/b/a Des Moines Golf and Country Club, 1600 Jordan Creek Parkway - Class LC Liquor License with Carryout Wine, Sunday Sales, and Outdoor Service Privileges - Renewal
 - 6. The Fresh Market, Inc. d/b/a The Fresh Market, 5901 Mills Civic Parkway - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - New
 - 7. Envision Homes, LLC d/b/a Heart of Iowa Marketplace, 211 5th Street - Class B Native Wine Permit with Sunday Sales - New
 - 8. Hy-Vee, Inc. d/b/a Hy-Vee Meeting Room, 1725 Jordan Creek Parkway - Transfer Location Temporarily to 1236 Jordan Creek Parkway (SpringHill Suites) - October 8, 2015
 - 9. Hy-Vee, Inc. d/b/a Hy-Vee Meeting Room, 1725 Jordan Creek Parkway - Transfer Location Temporarily to 1236 Jordan Creek Parkway (SpringHill Suites) - October 14, 2015
 - 10. Hy-Vee, Inc. d/b/a Hy-Vee Meeting Room, 1725 Jordan Creek Parkway - Transfer Location Temporarily to 1236 Jordan Creek Parkway (SpringHill Suites) - October 15, 2015
 - 11. Rogers Entertainment, d/b/a Jeremiah Bullfrogs, 1907 EP True Parkway - Class LC Liquor License with Sunday Sales - Renewal
 - 12. Kountry Manor Antiques Collectables and Gifts, d/b/a Memory Lane Antiques Valley Junction, 208 5th Street - Class B Native Wine Permit with Sunday Sales - Renewal
 - 13. The Noodle Shop, Co. - Delaware, Inc., d/b/a Noodles & Company, 1551 Valley West Drive, Suite 237 - Class BW Permit with Sunday Sales and Outdoor Service - Renewal
 - 14. Riley Drive Entertainment XII, Inc., d/b/a Saints Pub Jordan Creek, 165 South Jordan Creek Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
 - 15. Riley Drive Entertainment I, Inc., d/b/a Tonic Bar, 5535 Mills Civic Parkway - Class LC Liquor License with Carryout Wine, Sunday Sales, Outdoor Service, and Catering Privileges - Renewal
- d. Approval of Contracts - Art on the Campus

- e. Approval to Purchase Integrated Parks and Recreation System Software
- f. Approval of Contract Addendum - Copier Contract
- g. Approval of Amendment to Professional Services Agreement - South 50th Street Widening
- h. Approval of Change Order # 1
 - 1. Pine Avenue Improvements - South 8th Street to End of Paving
 - 2. Community Center Interior Renovations
- j. Order Construction:
 - 1. 2015 Intake Repair Program
 - 2. 98th Street Improvements - Water Tower to Railroad Tracks
- k. Accept Work:
 - 1. 39th Street Reconstruction Project
 - 2. Grand Avenue Tree Cutting
- l. Approval of 28E Agreement with Iowa Alcoholic Beverages Division - Iowa Pledge Tobacco Compliance Program
- m. Approval of Certificate of Completion - 4125 Westown Parkway
- n. Approval of Purchase Agreement and Easements – Dixie Acres Sanitary Sewer Project

Vote 15-418: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 4(i) Approval of Amendment to Existing Policy - Disposition of Excess Real Property

Mayor Gaer stated this policy was amended in January 2014 to allow a former property owner of excess real property, as part of the process of purchasing back the property, to select the appraiser from the Iowa Department of Transportation's list of approved appraisers. However, in the most recent case of selling excess real property to the former property owner, the appraiser selected by the former property owner did not have experience with this type of appraisal project, and the appraisal was rejected by the Iowa Department of Transportation. Therefore, staff is recommending the proposed amendment, which would eliminate the former property owner's right to select the appraiser. He noted the Finance and Administration Subcommittee had a split recommendation on the proposed amendment.

Council member Trimble stated he is opposed to the proposed amendment, citing concerns about the possible perception that the City would be selecting appraisers that would be more favorable to the City.

Council member Sandager stated he supports the proposed amendment, because of the recent issues under the current policy and the lack of issues or complaints under the policy before the former property owners were given the right to select the appraiser.

Council member Trevillyan stated he supports the proposed amendment, and he noted that an appraiser on the Iowa Department of Transportation's list of approved appraisers is not

necessarily qualified for all types of appraisals.

It was moved by Sandager, second by Trevillyan to approve Item 4(i) Approval of Amendment to Existing Policy - Disposition of Excess Real Property.

Council member Trimble suggested a policy where the former property owner still had the right to select the appraiser, but the City would establish its own list of approved appraisers to select from.

City Attorney Scieszinski noted that such a policy, where the City selects the appraisers for a list, would not necessarily remove the possibility of people perceiving that the City selects appraisers that would be more favorable to the City.

Vote 15-419: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Trimble 1 no

Motion carried.

On Item 4(j)2 Order Construction - 98th Street Improvements - Water Tower to Railroad Tracks

Council member Trevillyan stated he will abstain on this item due to a potential conflict of interest.

It was moved by Sandager second by Trimble to approve Item 4(j)2 Order Construction - 98th Street Improvements - Water Tower to Railroad Tracks.

Vote 15-420: Messerschmidt, Mickelson, Sandager, Trimble...4 yes
Trevillyan... 1 abstain due to potential conflict of interest

Motion carried.

On Item 5(a) Valley South/Watson Center, southeast corner of Westtown Parkway and Valley West Drive - Amend the Planned Unit Development (PUD) to Establish Regional Commercial Zoning, Amend Allowed Uses, and Modify Development Regulations, initiated by The Shoppes at Valley West, LLC

It was moved by Trimble, second by Messerschmidt to consider the second reading of the ordinance.

Vote 15-421: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Sandager to approve the second reading of the ordinance.

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Vote 15-422: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Trimble, second by Sandager to waive the third reading and adopt the ordinance in final form.

Vote 15-423: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(b) Paradise Pointe, northwest corner of South 64th Street and Mills Civic Parkway - Amend Specific Plan Language to Allow Projecting Signs within the Development, initiated by Jordan Creek Investments

It was moved by Trevillyan, second by Sandager to consider the second reading of the ordinance.

Vote 15-424: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Sandager to approve the second reading of the ordinance.

Vote 15-425: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Trevillyan, second by Sandager to waive the third reading and adopt the ordinance in final form.

Vote 15-426: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(c) Sugar Creek Stormwater Connection Fee District - Approval of Amendment, initiated by the City of West Des Moines

It was moved by Sandager, second by Messerschmidt to consider the second reading of the ordinance.

Council member Trimble stated he was not present for the previous meeting's first reading of this ordinance, but Bob Veenstra, who has been contracted by the City for this project, has stated the stormwater district does provide a general benefit to water flow management for all properties in the district. Therefore, he stated he will reluctantly vote to approve this ordinance.

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Vote 15-427: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Sandager, second by Trevillyan to approve the second reading of the ordinance.

Vote 15-428: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Sandager, second by Messerschmidt to waive the third reading and adopt the ordinance in final form.

Vote 15-429: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider Westport, 33346 V Court - Amend the Comprehensive Plan Land Use Map from Office and Medium Density Residential to Single Family Residential and Designate Single Family Residential on approximately 63 Acres, initiated by Westport Development, LLC. He asked for the date the notice was published and the City Clerk indicated the notice was published on September 18, 2015 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 7-0, the Plan and Zoning Commission recommended City Council approval of the Comprehensive Plan Amendment and Rezoning Request, and one correspondence was received which was included with the Council communication.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Sandager, second by Trevillyan to adopt Resolution - Approval of Comprehensive Plan Land Use Amendment.

Vote 15-430: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Sandager, second by Messerschmidt to consider the first reading of the ordinance.

Vote 15-431: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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It was moved by Sandager, second by Messerschmidt to approve the first reading of the ordinance.

Vote 15-432: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(b) Mayor Gaer indicated this was the time and place for a public hearing to consider Neff Property, north of Stagecoach Drive, south of Mills Civic Parkway, west of 93rd Street - Amend the Comprehensive Plan Land Use Map from Office and Medium Density Residential to Single Family Residential and Designate Single Family Residential on approximately 76 Acres, initiated by Dr. Scott and Pamela Neff. He asked for the date the notice was published and the City Clerk indicated the notice was published on September 18, 2015 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 7-0, the Plan and Zoning Commission recommended City Council approval of the Comprehensive Plan Amendment and Rezoning Request.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trevillyan, second by Trimble to adopt Resolution - Approval of Comprehensive Plan Land Use Amendment.

Vote 15-433: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Sandager, second by Trevillyan to consider the first reading of the ordinance.

Vote 15-434: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Sandager, second by Trevillyan to approve the first reading of the ordinance.

Vote 15-435: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(c) Mayor Gaer indicated this was the time and place for a public hearing to consider Bridgewood Drive, northeast of the Bridgewood Drive/Beechtree Lane Intersection - Sale and Conveyance of Property, initiated by Ryan Companies US, Inc. He asked for the date the notice was published and the City Clerk indicated the notice was published on September 29, 2015 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

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Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trimble, second by Messerschmidt to adopt Resolution - Approval of Sale and Conveyance of Property.

Vote 15-436: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(a) Village of Ponderosa Plat 9, southeast corner of Bluestem Circle and South Prairie View Drive - Subdivide Property into 43 Lots for Single Family Development and Four Outlots, initiated by Grayhawk Homes of Iowa, Inc.

It was moved by Sandager, second by Trimble to adopt Resolution - Approval and Release of Final Plat, subject to the applicant complying with all applicable City Code requirements.

Vote 15-437: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(b) Whisper Rock at Quail Cove, north of Cherrywood Drive, east of I-35, west of South 50th Street - Subdivide Property into 18 Lots for Single Family Development, initiated by Prairie Building and Development, LLC

It was moved by Trimble, second by Messerschmidt to adopt Resolution - Approval of Preliminary Plat, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. That the City Council accept a fence in lieu of a buffer along I-35 for Lots 2, 3, and 13.
2. That the City Council waive the buffer requirement for double frontage lots for Lots 4-8.

Vote 15-438: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(c) First Street Redevelopment Master Plan, southwest corner of 1st Street and Grand Avenue - Approval of Master Plan of Building and Infrastructure Modifications, initiated by First Street, LP

It was moved by Trevillyan, second by Messerschmidt to adopt Resolution - Approval of Master Plan, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. Per the City Code, a Master Plan shall serve only as a guide for development and shall not be binding on the City for subsequent plan review and approvals. City Council approval of the Rezoning Request (PUD) is required prior to any construction as proposed by the Master Plan, however, footing and foundation permits may be issued prior to City Council 2nd and 3rd Readings and adoption of the PUD to keep individual projects moving forward.
2. The re-development of the Master Plan area will be multi-phased to accommodate existing tenants and market conditions. To plan for the incremental installation of the improvements related to the Master Plan, a Phasing Plan has been created that addresses obligations of improvements for all parcels currently contained in or affected by the Master Plan. Said Phasing Plan shall be noted on the Master Plan and recorded with the Council Resolution for the Master Plan.

Vote 15-439: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(d) Amendment to City Code - Title 5 (Police Regulations), Chapter 3A (Dogs and Cats), Section 3 (License Fee) - Remove License Fee Microchip Reduction, initiated by the City of West Des Moines

It was moved by Trimble, second by Messerschmidt to consider the first reading of the ordinance.

Vote 15-440: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Messerschmidt to approve the first reading of the ordinance.

Vote 15-441: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(e) Amendment to City Code - Title 6 (Motor Vehicles and Traffic), Chapter 5 (Rules of the Road) - Revise General Traffic Regulations, initiated by the City of West Des Moines

It was moved by Trevillyan, second by Messerschmidt to consider the first reading of the ordinance.

Vote 15-442: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Messerschmidt to approve the first reading of the ordinance.

Vote 15-443: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 8(a) Amendment to City Code - Title 9 (Zoning), Chapter 10 (Performance Standards) - Establish Regulations Regarding the Implementation of Roll-Up Doors and Windows in Restaurants and Bars - City Initiated - Referred to Plan and Zoning

On Item 8(b) Amendment to City Code - Title 9 (Zoning), Chapter 2 (Definitions), Chapter 6 (Commercial, Office, and Industrial Zoning District), and Chapter 10 (Performance Standards) - Establish Definitions, Amend Parking Standards, Amend Use Matrix, and Modify Regulations as Related to Event Venues and Assembly Uses - City Initiated - Referred to Plan and Zoning

On Item 9 - Other Matters: none

The meeting was adjourned at 6:22 p.m.

Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Steven K. Gaer, Mayor