February 23, 2015

West Des Moines City Council Proceedings
Monday, February 23, 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, February 23, 2015 at 5:30 PM. Council members present were: R. Messerschmidt, J. Mickelson, J. Sandager, and K. Trevillyan.

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

Vote 15-059: Messerschmidt, Mickelson, Sandager, Trevillyan…4 yes
Motion carried.

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

On Item 3. Council/Manager/Other Entities Reports: No reports.

On Item 4. Consent Agenda.

Council members pulled Item 4(g) for discussion. It was moved by Sandager, second by Trevillyan to approve the consent agenda as amended.

a. Approval of Minutes of February 9, 2015 Meeting
b. Approval of Bill Lists
c. Approval of Liquor Licenses:
    1. Lin Corporation d/b/a China Garden, 2020 Grand Avenue, Suite 1300 - Class BW Permit with Sunday Sales - Renewal
    2. Coach's Pizza, LLC d/b/a Coach's Pizza, 560 South Prairie View Drive - Class LC Liquor License with Sunday Sales, Outdoor Service, and Catering Privileges - Renewal
    3. Famous Dave's Ribs, Inc. d/b/a Famous Dave's, 1720 22nd Street - Class LC Liquor License with Sunday Sales - Renewal
    4. C.C.W., LLC d/b/a Huhot Mongolian Grill, 4100 University Avenue, Suite 101 - Class BW Permit with Sunday Sales - Renewal
    5. Hy-Vee, Inc. d/b/a Hy-Vee #4, 555 South 51st Street - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
    6. Kum & Go LC d/b/a Kum & Go #66, 5308 University Avenue - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
    7. Miranda Family Corporation d/b/a Mi Patria, 1410 22nd Street - Class BW Permit with Sunday Sales - Renewal
    8. Samurai Sushi & Hibachi Restaurant, Inc. d/b/a Samurai Sushi & Hibachi Restaurant, 7125 Mills Civic Parkway, Suite 110 - Class LC Liquor License with

Sunday Sales - Renewal

9. W2005/Fargo Hotels (Pool C) Realty, LP d/b/a West Des Moines Residence Inn, 160 South Jordan Creek Parkway - Special Class C Liquor License - Renewal
10. The Wine Experience at Younkers Jordan Creek, LC, d/b/a The Wine Experience at Younkers Jordan Creek, 101 Jordan Creek Parkway, Building 6000 - Class BW Permit with Carryout Wine and Sunday Sales - Renewal
11. Cost Plus, Inc. d/b/a World Market, 4100 University Avenue, Suite 210 - Class BC Beer Permit with Carryout Wine and Sunday Sales - Renewal

d. Approval of Lane Closure(s) for Special Event - St. Patrick's 10K and 5K - Friendly Sons of St. Patrick

e. Approval of Appointments
   1. Bicycle Advisory Commission
   2. Human Services Advisory Commission
   3. Public Art Advisory Commission

f. Approval to Sell Surplus City Equipment

h. Approval of Application - Polk County Community Betterment Grant - Human Services

i. Approval of Request for Technical Assistance - Trust for Public Land

j. Approval of Change Order #11 - 139 6th Street Building Renovation

k. Approval of 28E Agreements:
   1. Fourth Amended and Restated 28E Agreement - WestCom
   2. Restated 28E Agreement for Joint Maintenance of Roads - City of Clive

l. Order Construction
   1. 2015 Concrete Trail Renovation
   2. 2015 HMA Resurfacing Program
   3. Grand Prairie Parkway Tree Cutting - Mills Civic Parkway to Wendover Road

m. Accept Work:
   1. Southwest Connector - Phase 3
   2. 2014 Intake Repair Program
   3. 2014 Sewer Rehabilitation Program
   4. Thornwood Sanitary Sewer Improvements - Phase 2

n. Direct Advertisement for Sale, Approval of Electronic Bidding Procedures and Approval of Official Statement:
   1. Issuance of $22,490,000 General Obligation Urban Renewal Bonds
   2. Issuance of $12,835,000 Taxable General Obligation Urban Renewal Bonds
   3. Issuance of $3,475,000 General Obligation Urban Renewal Refunding Bonds

o. Establish Consultation Meeting and Public Hearing - Amendment #1 to Alluvion Urban Renewal Area

p. Approval of Settlement Agreement - High Quality Job Creation Program

q. Approval and Acceptance of Purchase Agreement and Easements - Fox Creek Sanitary Sewer Project

r. Approval and Acceptance of Purchase Agreement, Deed, and Easements - Frink Creek Sanitary Sewer Project

s. Approval and Acceptance of Purchase Agreement and Property - Ashworth Road Low

Pressure Sewer System Project

t. Approval and Acceptance of Agreement and Waiver for Future Traffic Signal - Ryan Companies Build-to-Suit Office

u. Approval and Acceptance of Irrevocable Offer of Dedication and Sanitary Sewer Easement - 503 Restaurant and Nightclub, 1238 8th Street

Vote 15-060: Messerschmidt, Mickelson, Sandager, Trevillyan…4 yes
Motion carried.

On Item 4(g) Approval of Revised Sidewalk Inspection and Repair Policy

Council member Trevillyan noted a correction is needed to the policy to remove the phrase "and in one piece" from the first sentence of the "Defect A or B (Sunken Sections)" paragraph in Appendix B. He also explained the proposed changes included in this revised policy.

It was moved by Trevillyan, second by Messerschmidt to approve Item 4(g) Approval of Revised Sidewalk Inspection and Repair Policy with correction to remove the phrase "and in one piece" from the first sentence of the "Defect A or B (Sunken Sections)" paragraph in Appendix B.

Vote 15-061: Messerschmidt, Mickelson, Sandager, Trevillyan…4 yes
Motion carried.

On Item 5(a) Majestic Oaks, generally located at the northwest corner of Stagecoach Drive and South 95th Street - Rezone the Property from Unzoned to Single Family Residential Consistent with the Comprehensive Plan, initiated by the City of West Des Moines

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

Vote 15-062: Messerschmidt, Mickelson, Sandager, Trevillyan…4 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 15-063: Messerschmidt, Mickelson, Sandager, Trevillyan…4 yes
Motion carried.

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

Vote 15-064: Messerschmidt, Mickelson, Sandager, Trevillyan…4 yes
Motion carried.

Council member Trimble arrived at 5:37 p.m. The attendance was re-taken. Council members present were: R. Messerschmidt, J. Mickelson, J. Sandager, K. Trevillyan, and R. Trimble.

On Item 5(b) Amendment to City Code - Title 7 (Public Ways and Property), Chapter 10 (Trees and Shrubs) - Amend Ordinance to Include Changes Needed Due to Emerald Ash Borer Management, initiated by the City of West Des Moines

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

Vote 15-065: 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.

Vote 15-066: 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 15-067: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble…5 yes
Motion carried.

On Item 5(c) Grand Avenue Trail, Raccoon River Park to Fuller Road, initiated by the City of West Des Moines

Mayor Gaer noted this action is needed because subsequent to Council approval of the preliminary plat and schedule of assessments, the City has decided it will pay for the full construction costs of this trail with no special assessments.

It was moved by Trimble, second by Sandager to adopt Resolution - Approval of Release of Preliminary Special Assessments.

Vote 15-068: 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 Maple Grove West, southeast corner of the Union Pacific Railroad and 98th Street - Amend the Planned Unit Development (PUD), Parcel B to Modify Requirements for Setbacks, Buffers, and Architecture, initiated by Rock Equity Holdings, LLC. He asked for the date the notice was

published and the City Clerk indicated the notice was published on February 6, 2015 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 5-0, with two members absent, the Plan and Zoning Commission recommended City Council approval of the proposed PUD Amendment.

Mayor Gaer asked if there were any public comments.

Eric Cannon, Snyder and Associates, 2727 SW Snyder Boulevard, Ankeny, on behalf of the developer, provided details on the proposed changes included in the requested PUD amendment.

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

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

Council member Messerschmidt stated he supports this request, but he has concerns about potential stormwater drainage issues when buildings are located close to each other.

Vote 15-069: 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 Trimble to approve the first reading of the ordinance.

Vote 15-070: 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 Amendment to City Code - Title 9 (Zoning), Various Chapters - Define and Establish Regulations for Brewery Tap Rooms, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on February 6, 2015 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 5-0, with two members absent, the Plan and Zoning Commission recommended City Council approval of the proposed City Code Amendment.

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

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

Council member Trevillyan inquired if the City Code would consider the tap room to be the

same use as a bar.

Lynne Twedt, Development Services Director, responded it would be considered the same use as a bar, because there will be retail sales of beer. She also stated a tap room is only allowed in conjunction with a brewery through a Permitted Conditional Use Permit. Future requests for such a conditional use would be handled on a case-by-case basis requiring approval by the Board of Adjustment.

Council member Messerschmidt inquired if this ordinance would allow for carryout sales of beer.

Ms. Twedt responded that would be allowed under the ordinance.

Brian Fox, 1143 42nd Street, Apt. D, Des Moines, representing Fox Brewing which has requested the permitted conditional use for a tap room, stated they plan to have sales of 22-ounce bottles.

Council member Trimble stated he has an investment with Fox Brewing, so he will abstain on this item due to a potential conflict of interest.

Vote 15-071: Messerschmidt, Mickelson, Sandager, Trevillyan…4 yes
Trimble… 1 abstain due to potential conflict of interest
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 15-072: Messerschmidt, Mickelson, Sandager, Trevillyan…4 yes
Trimble… 1 abstain due to potential conflict of interest
Motion carried.

On Item 6(c) Mayor Gaer indicated this was the time and place for a public hearing to consider Issuance of Not to Exceed $3,680,000 General Obligation Urban Renewal Refunding Bonds, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on February 11, 2015 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

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 - Instituting Proceedings to

Take Additional Action

Vote 15-073: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble…5 yes
Motion carried.

On Item 6(d) Mayor Gaer indicated this was the time and place for a public hearing to consider 2015-16 FY Operating and Capital Budget, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on February 13, 2015 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

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

It was moved by Sandager, second by Trimble to adopt Motion - Approval of Budget.

The Mayor and Council expressed they are very happy that this budget will include a 5-cent reduction in the property tax levy rate, while maintaining existing staffing and levels of service, and they expressed appreciation to staff for their efforts throughout this budget process.

Vote 15-074: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble…5 yes
Motion carried.

On Item 6(e) Mayor Gaer indicated this was the time and place for a public hearing to consider Fox Creek Trunk Sewer - Phase 1, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on February 13, 2015 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

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

It was moved by Trevillyan, second by Sandager to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to MPS Engineers, PC.

Vote 15-075: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble…5 yes
Motion carried.

On Item 7(a) Clocktower Square, 2800 and 2900 University Avenue - Approval of a Site Plan for Exterior Modifications, Parking Lot Changes, and Storm Water Improvements, initiated by Clocktower Square Baceline, LLC

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

1. Providing an executed irrevocable offer of dedication for University Avenue and 28th Street, prior to obtaining a building permit. *(provided)*

2. Providing an ingress/egress easement between Lots 1 and 2 Clocktower Square, prior to obtaining a building permit. *(provided)*

3. Providing a sanitary sewer easement, prior to obtaining a building permit. *(provided)*

4. Providing a storm water facility maintenance agreement prior to obtaining a building permit.

5. Providing proof of payment to MidAmerican Energy for streetlights, prior to obtaining a building permit.

6. Providing final site plan drawings addressing staff comments, prior to obtaining a building permit.

7. The City Council waiving the requirement that 35% of the open space trees be overstory or evergreen in Lot 2 and lowering the required trees from eleven to six.

Vote 15-076: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble…5 yes
Motion carried.

On Item 7(b) Amendment to City Code - Title 7 (Public Ways and Property), Chapter 1 (Streets, Sidewalks and Alleys), Section 6 (Maintenance of Parking Terrace and Sidewalks) - Notice to Abutting Property Owners to Repair Sidewalks, initiated by the City of West Des Moines.

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

Vote 15-077: 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 Trevillyan to approve the first reading of the ordinance.

Vote 15-078: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble…5 yes
Motion carried.

On Item 8(a) Whisper Ridge, southwest corner of Bridgewood Boulevard and South 88th Street - Establish Planned Unit Development (PUD) to Address Development Standards for Attached Townhomes - Hale Development Company, LLC - Referred to Plan and Zoning Commission

On Item 8(b) Marty Blanchard Resignation - Human Services Advisory Board – Received and filed.

On Item 8(c) Judy Price Resignation - Library Board of Trustees – Received and filed.

On Item 9 - Other Matters: none

The meeting was adjourned at 6:02 p.m.

Respectfully submitted,

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Ryan T. Jacobson, CMC
City Clerk

ATTEST:

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Steven K. Gaer, Mayor