

July 13, 2015

West Des Moines City Council Proceedings
Monday, July 13, 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, July 13, 2015 at 5:30 PM. Council members present were: J. Mickelson, R. Messerschmidt, and K. Trevillyan. Council member J. Sandager participated via telephone.

City Clerk Ryan Jacobson stated staff is recommending an amendment to the agenda to remove the Executive Session, so that it can be brought forward at the next meeting when the full Council will be present.

On Item 1. Agenda. It was moved by Trevillyan, second by Mickelson approve the agenda as amended.

Vote 15-278: 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:

Council member Messerschmidt reported he attended the ribbon cutting ceremony for the new Fareway store at 329 Grand Avenue and commented on how it is a great addition to the community.

On Item 4. Consent Agenda.

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

- a. Approval of Minutes of June 29, 2015 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 1. MLC Holdings, LLC, d/b/a Blue Moon Dueling Piano Bar & Restaurant, 5485 Mills Civic Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
 2. Cabaret West Des Moines, LLC d/b/a Cabaret, 560 Prairie View Drive, Suite 105 - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
 3. Cabaret West Des Moines, LLC d/b/a Cabaret, 560 Prairie View Drive, Suite 105 - Class LC Liquor License Extension of Outdoor Service - July 24-25, 2015
 4. Café Su, Inc. d/b/a Café Su, 225 5th Street - Class LC Liquor License with Carryout Wine and Sunday Sales - Renewal

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5. Casey's Marketing Company, d/b/a Casey's General Store #2824, 6630 Mills Civic Parkway - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
 6. Casey's Marketing Company, d/b/a Casey's General Store #2923, 1850 22nd Street - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
 7. Casey's Marketing Company d/b/a Casey's General Store #3098, 125 Grand Avenue - Class LE Liquor License with Carryout Beer, Native Wine, and Sunday Sales - Renewal
 8. Frank's Divine Pie 8950, d/b/a Gusto Pizza Company, 8950 University Avenue - Class BW Permit with Sunday Sales and Outdoor Service - Renewal
 9. Red Lobster Restaurants, LLC d/b/a Red Lobster #0796, 3838 Westown Parkway - Class LC Liquor License with Sunday Sales - Renewal
 10. Twin Restaurant Des Moines, LLC d/b/a Twin Peaks, 4570 University Avenue - Class LC Liquor License with Sunday Sales and Outdoor Service - New
- d. Approval to Sell Surplus City Equipment
- e. Approval of Grant Application - Iowa Finance Authority Emergency Solutions Grant
- f. Approval of First Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions - Hermitage Townhome Association
- h. Order Construction:
1. Ashworth Road Trail Extension - 58th Street to Prairie View Drive
 2. Intersection Improvements - Intersection of 92nd Street and University Avenue and Intersection of Jordan Creek Parkway and Westown Parkway
- i. Accept Work:
1. Woodland Hills Park Site Grading and Utilities
 2. Cascade Avenue Trunk Sewer
- j. Approval of Reimbursement - Raccoon River Park Softball Complex Irrigation
- k. Acceptance of Easements:
1. Intersection Improvements - 92nd Street and University Avenue
 2. South 8th Street Improvements - Pine Avenue to County Line Road
- l. Approval of Supplemental Agreement - Ashworth Road Low Pressure Sewer
- m. Establish Just Compensation and Approve Acquisition of Property - Dixie Acres Sanitary Sewer
- n. Approval of Professional Services Agreements:
1. Building Envelope Commissioning for City Hall
 2. General Architectural Services
 3. Glen Oaks Drainage Study
- o. Approval of Agreement for Preliminary Engineering Services - 98th Street Improvements - Water Tower to Railroad Tracks

Vote 15-279: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

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On Item 4(g) Order Preparation of Plans and Specifications - Raccoon River Park Softball Complex Irrigation Improvements

Council member Messerschmidt requested clarification on the funding source for this proposed project.

Gary Scott, Director of Parks and Recreation, stated the Council communication listed the correct budget code for the funding source, but the account was incorrectly referred to as the Valley View Park C.I.P. He stated the Council communication should have indicated the funding would come from the Raccoon River Park Softball Irrigation account.

It was moved by Messerschmidt, second by Trevillyan to approve Item 4(g) Order Preparation of Plans and Specifications - Raccoon River Park Softball Complex Irrigation Improvements.

Vote 15-280: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

Mayor Gaer stated, due to a potential conflict of interest related to Item 5(a), Mayor Pro tem Mickelson will preside over this portion of the meeting.

On Item 5(a) Country Club Office Plaza and Ashworth Corridor, 7171 and 6975 Woodland Avenue - Amend Planned Unit Developments (PUD's) to Remove an Overlap in PUD Boundaries and Clarify Development Regulations in the Ashworth Corridor PUD, initiated by the City of West Des Moines

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

Vote 15-281: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 15-282: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

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

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Vote 15-283: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

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

Vote 15-284: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 15-285: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

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

Vote 15-286: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

Mayor Gaer resumed presiding over the meeting.

On Item 5(b) Dixie Acres Sanitary Sewer Connection Fee District, north of Ashworth Road on 54th Street, initiated by the City of West Des Moines

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

Vote 15-287: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 15-288: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

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

Vote 15-289: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 5(c) Amendment to City Code - Title 7 (Public Ways and Property), Chapter 11 (Park Rules and Regulations) - Restrict Parking within Parks to Designated Parking Lots and Marked Stalls Only, initiated by the City of West Des Moines

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

Vote 15-290: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 15-291: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

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

Vote 15-292: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider White Crane Road - South 8th Street to Dead End, 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 July 3, 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 Messerschmidt to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Elder Corporation.

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Vote 15-293: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 6(b) Mayor Gaer indicated this was the time and place for a public hearing to consider Storm Sewer Repair Supplemental Retainer Contract, 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 July 3, 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 Messerschmidt to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to McGreger Corporation.

Vote 15-294: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 6(c) Mayor Gaer indicated this was the time and place for a public hearing to consider Street and Pavement Repair Supplemental Retainer Contract, 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 July 3, 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.

Mayor Gaer stated since no bids were received, due to the contractors being too busy at this time, staff intends to re-issue a request for bids on this contract in the winter.

It was moved by Messerschmidt, second by Trevillyan to adopt Resolution - Approval of Plans and Specifications and Motion to Receive and File Report of Bids.

Vote 15-295: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 7(a) West Lakes Office Park Plat 14, southwest corner of University Avenue and 71st Street - Plat Property into Two Lots for Commercial Development, Two Street Lots, and One Outlot for Detention, initiated by Hy-Vee, Inc.

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

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requirements.

Vote 15-296: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 7(b) DSM06 - Alluvion, southeast corner of Pine Avenue and South 8th Street -
Approval of Site Plan for Phase Two Construction of Data Center, initiated by Microsoft Corp.

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

1. The applicant acknowledging that all phases collectively will need to abide by the regulations stated City's Noise Ordinance at all times;
2. The applicant taking the necessary measures within the limits of what Microsoft security measures will allow to minimize light pollution on surrounding properties and the area in general; and,
3. The applicant acknowledging and agreeing that any intended modifications to the site which differ from that shown on the final approval stamped site plan drawing packet shall require the review and approval of the City prior to implementation. Said changes may require the submittal and approval of a Minor or Major Modification Permit application, whichever is deemed applicable by staff which shall be reviewed and approved prior to implementation of any changes.
4. The applicant making appropriate substitutions for the American Sycamore and Eastern Red Cedar.

Vote 15-297: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 7(c) Canteen Vending, 519 South 18th Street - Approval of Major Modification to Site
Plan for Two Building Additions and Associated Landscaping, initiated by Compass Group

It was moved by Messerschmidt, second by Trevillyan 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. The City Council granting a deferral for the installation of three (3) landscape islands and the associated curb and gutter within the portion of the parking lot directly adjacent to the northeast side of the building until such time that the parking lot is modified, expanded or reconstructed in the future.

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2. The City Council granting a deferral for the installation of two (2) landscape pods in the portion of the parking lot directly adjacent to the northeast side of the building as required by City Code until such time that the parking lot is modified, expanded or reconstructed in the future.
3. The City Council granting a deferral for the installation of curb and gutter in the front parking lot at the main entrance to the site (east of the fenced in area of the parking lot) until such time that the parking lot is modified, expanded or reconstructed in the future.
4. The applicant installing street lights along S. 18th Street adjacent to the applicant's site at such time that overhead power is placed underground or as otherwise determined necessary by the City.
5. The applicant acknowledging that this approval is conditioned upon the future dedication of two (2) feet of right of way along S. 18th Street at such time as requested by the City and as outlined in the Irrevocable Offer of Dedication agreement for the subject property.
6. The applicant acknowledging that this approval is conditioned upon the applicant installing public sidewalks within the right-of-way of the subject property at such time as determined necessary by the City or otherwise triggered through the City's Sidewalk Improvement Program.

Vote 15-298: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 7(d) Amendment to City Code - Title 8 (Building Regulations), Chapter 2A (Building Code), Section 29 (Rental Housing) - Place Restrictions on Rental of Single Family Housing for Thirty-One Days or Less, initiated by the City of West Des Moines

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

Council member Mickelson stated he does not like getting in the way of new technologies, such as Airbnb, but he feels the proposed ordinance is a happy medium that protects the residents but still allows technologies like Airbnb to exist.

Vote 15-299: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

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.

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Vote 15-300: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 8(a) Bartlett Farm Plat 5, 7887, 7899, 7905, 7911, and 7917 Aspen Drive - Vacate 30 foot Buffer Park Easement Located along Rear Lot Line of Lots 3-8 - City Initiated - Referred to Plan and Zoning Commission

On Item 8(b) Westbridge Plat 1, 874, 902, 914, 926, 938, 950, 962, 974, and 988 78th Place - Vacate 60 foot Buffer Park Easement Located along Rear Lot Line of Lots 10-18 - City Initiated - Referred to Plan and Zoning Commission

On Item 8(c) Jordan West Plat 3, southwest corner of EP True Parkway and Jordan Creek Parkway - Vacate the Existing Sanitary Sewer, Ingress/Egress, and Greenbelt/Overland Flowage Easements - Ryan Companies, Inc. - Referred to Plan and Zoning Commission

On Item 9 - Other Matters: none

The meeting was adjourned at 5:45 p.m.

Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Steven K. Gaer, Mayor