

September 21, 2015

West Des Moines City Council Proceedings
Monday, September 21, 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, September 21, 2015 at 5:30 PM. Council members present were: J. Mickelson, R. Messerschmidt, J. Sandager, and K. Trevillyan.

City Clerk Ryan Jacobson noted staff recommends an amendment to Item 6(g) Dixie Acres Sanitary Sewer, to include change order #1 along with approval to award the contract.

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

Vote 15-398: 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:

Todd Ashby, Executive Director of the Des Moines Area Metropolitan Planning Organization (MPO), provided a report to the Mayor and Council, including updates on projects funded through the MPO, the current quality of roadways and bridges throughout the metro, and a proposal for local governments to adopt a complete streets policy.

Council member Sandager reported he attended a meeting of the Metro Advisory Council, where discussion was held on a proposed new terminal at Des Moines International Airport and pending changes to the FAA Reauthorization Bill. He also attended a Development and Planning Subcommittee meeting, where discussion was held on a proposed redevelopment incentive policy. He reported he also participated in last week's economic development bus tour, which was followed by the officials' cookout at Wells Fargo's Jordan Creek campus, where Lieutenant Governor Kim Reynolds presented the City of West Des Moines with a Home Base Iowa designation for the community's commitment to hiring veterans.

Council member Trevillyan reported he and Council member Messerschmidt will both participate on the selection committee for the Valley Junction Master Plan, and 13 proposals were received. The committee's goal is to have a consultant selected by the end of October.

Council member Messerschmidt reported he attended a Public Works Subcommittee meeting, where discussion was held on water line issues at the West Des Moines Community Center and the need to replace a culvert at Fairmeadows Park. He reported he attended a presentation by staff at Edgewater, where an update was given on development projects throughout the city.

On Item 4. Consent Agenda.

It was moved by Messerschmidt, second by Sandager to approve the consent agenda as presented.

- a. Approval of Minutes of September 8, 2015 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 1. Mohamed Ali d/b/a Chicha Shack, 5435 Mills Civic Parkway, Suite 110 - Class LC Liquor License with Sunday Sales - Renewal
 2. Clive Jaycees d/b/a Clive Jaycees, 255 81st Street (Valley View Park) - 5-Day Class BB Beer Permit for Thrive Church Food Truck 5K - September 26, 2015
 3. Ingersoll Liquor & Beverage Co., d/b/a Ingersoll Wine Merchants, 1300 50th Street - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
 4. Butterface, LLC d/b/a The Keg Stand, 3530 Westown Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 5. Ohana Inc. d/b/a Ohana Steakhouse, 2900 University Avenue, Suite A - Class LC Liquor License with Sunday Sales - Renewal
 6. Walnut Brewery, Inc., d/b/a Rock Bottom Brewery, 4508 University Avenue - Class LC Liquor License Extension of Outdoor Service - September 24, 2015
 7. Riley Drive Entertainment I, Inc., d/b/a Tonic Bar, 5535 Mills Civic Parkway - Class LC Liquor License Extension of Outdoor Service - September 26-27, 2015
 8. InterMountain Management, LLC d/b/a TownePlace Suites, 125 South 68th Street - Class LB Liquor License with Sunday Sales - New
 9. International Event Center, Inc., d/b/a Val Air, 301 Ashworth Road - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
- d. Approval of Waiver of Alcohol Provisions - Thrive Church Food Truck 5K - Valley View Park, September 26, 2015
- e. Approval of Extended Sound Permit - Tonic Bar West Glen, 5535 Mills Civic Parkway
- f. Approval of Appointment - Civil Service Commission
- g. Approval of Contract Agreement - Snow Removal and Ice Control Services
- h. Approval of Change Order #2 - 2015 Concrete Trail Renovation
- i. Approval of Amendment No. 1 to Relocation and Reimbursement Agreement - MidAmerican Energy Company
- j. Approval to Purchase Wetland Credits - Maffitt Lake Road Improvements - Veterans Parkway to South 8th Street
- k. Approval of FY 2014-15 Iowa Department of Transportation City Street Financial Report
- l. Accept Purchase of Equipment - Flashing Yellow Arrow Traffic Signal Conversion Project
- m. Accept Work - 2015 Concrete Trail Renovation
- n. Approval of Professional Services Agreement:
 1. Valley Junction Strategic Planning Research

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2. Ashworth Road Street Light Improvements, Prairie View Drive to 60th Street
- o. Establish Just Compensation and Approve Acquisition of Property:
 1. Ashworth Road Improvements - Phase 1
 2. Walnut Creek Outfall Storm Sewer
 3. South 50th Street Widening
 - p. Establish Public Hearing Regarding the Final Design, Site Selection and Consideration of Acquiring Agricultural Property - Ashworth Road Improvements - Phase 1
 - q. Approval of Purchase Agreement, Deeds, and Easements - South Grand Prairie Parkway - Wendover Road to Mills Civic Parkway
 - r. Acceptance of Property Interests - Pine Avenue Improvements - Veterans Parkway to South 8th Street and South 8th Street Improvements - Army Post Road to Pine Avenue

Vote 15-399: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 5(a) S & F/Karp, northeast corner of South 41st Street and Mills Civic Parkway - Amend the Planned Unit Development (PUD) to Address Development Regulations, initiated by Highgates Plaza, LLC

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

Vote 15-400: Messerschmidt, Mickelson, Sandager, Trevillyan...4 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 15-401: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

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

Vote 15-402: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 5(b) De Haan Plat of Survey, 1745 Glen Oaks Drive - Approval of Plat of Survey to Create One Single Family Lot, initiated by Doug De Haan

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

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Vote 15-403: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 6(a) Development Agreement, Westtown V Urban Renewal Area - Development of an Office and Conference Center, initiated by Hy-Vee, Inc. (Continued from August 10, 2015, August 24, 2015, and September 8, 2015)

It was moved by Messerschmidt, second by Sandager to adopt Motion - Continue Public Hearing Indefinitely.

Vote 15-404: 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 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. He asked for the date the notice was published and the City Clerk indicated the notice was published on September 4, 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 PUD 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.

Vote 15-405: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
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 15-406: 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 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

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Creek Investments. He asked for the date the notice was published and the City Clerk indicated the notice was published on September 4, 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 Amendment to the Specific Plan Ordinance.

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.

Vote 15-407: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
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 15-408: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 6(d) Mayor Gaer indicated this was the time and place for a public hearing to consider Sugar Creek Stormwater Connection Fee District - Approval of Amendment, 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 September 4, 2015 and September 11, 2015 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated one correspondence was received by Interchange Partners, LLC and was included with the Council communication.

Mayor Gaer asked if there were any public comments.

Steve Gillotti, Manager of Interchange Partners, LLC, 1709 South 42nd Street, expressed opposition to the proposed amendment to the district boundaries to include property owned by Interchange Partners, LLC. He stated the road culverts only pass water under roads, and this district is not a stormwater management district; it is simply a transportation district, which he believes is problematic. He also stated the Interchange Partners property is already connected to a stormwater disposal network, the existing creek system located on private property; therefore he believes the stormwater connection fee district and its downstream culverts will provide no new benefit to the Interchange Partners property.

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

Bob Veenstra, Veenstra & Kimm, 3000 Westown Parkway, explained that in stormwater drainage, it's been long recognized that if a City constructs an improvement, even properties upstream that don't connect directly are still receiving a benefit from that property, and upstream property owners still bear some of the responsibility for stormwater even after it has drained off their property. He stated the entire area is considered as a global entity, established as one stormwater connection fee district as opposed to 17 small districts for each of the improvements made. He noted the obligation doesn't rest entirely with the property owners, as the City bears some of the responsibility as well. He also noted that the properties that are only partially in the Sugar Creek watershed will only be charged the fee based on the portion of the property that actually drains into Sugar Creek.

Mayor Gaer noted the City had requested an Attorney General opinion to address this issue.

City Attorney Dick Scieszinski stated that is correct. The Attorney General opinion stated that sanitary sewer fee districts are authorized by the statute, and that source properties upstream can receive a benefit from downstream stormwater improvements, even if they are not physical connected, as the source properties are producing stormwater runoff that has to be transmitted.

Mayor Gaer stated based on the estimates included with the Council communication, the City will covering approximately 25 percent of the total cost for these stormwater improvements.

Council member Trevillyan inquired why the Interchange Partners property was not included when the original stormwater connection fee district was established.

Duane Wittstock, City Engineer, responded there were two errors made on this parcel, one was an issue of notice and the other was by incorrectly informing Mr. Gillotti that the Interchange Partners property would not be in the district, when in reality the property does predominantly fall within the district boundaries. The proposed amendment is a method to rectify the errors.

Council members Mickelson and Sandager both indicated they will vote to approve the first reading tonight, but they want to meet with staff and Mr. Gillotti to learn more information before the ordinance comes back to Council for a second and third reading.

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

Vote 15-409: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 15-410: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 6(e) Mayor Gaer indicated this was the time and place for a public hearing to consider Coachlight Drive Street Improvements - South 88th Street West, 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 September 9, 2015 and September 16, 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.

Marc Abels, representing Hidden Creek, LLC, stated there are two alternatives presented to the Council with one including a water line. His client originally thought the cost estimate for the water line would be lower than it was, and they are no longer requesting the water line alternative. He stated if the proposed special assessment is approved, it will allow for the sale of a 13-acre parcel to Hale Development for the proposed construction of 66 townhomes. He also stated Hidden Creek, LLC has made arrangements to ensure the deficiency assessment will be escrowed immediately or within a reasonably short period of time. He noted the 13-acre parcel at its current valuation is generating \$42.75 per year in property tax revenue to the City, but after the 66 townhomes are completed, the estimated valuation would generate approximately \$90,000 per year in property tax revenue.

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 Mickelson to adopt Resolution - Approval of Proposed Resolution of Necessity (alternate #1 with water main not included).

Council member Trevillyan inquired about the necessity of this project.

Mr. Abels responded this is a unique situation, as in most cases the developer has ownership of the roadbed, whereas in this case the Coachlight Drive roadbed is not even in the West Des Moines corporate limits. He noted the City has policies against involuntarily annexation and eminent domain, but Hidden Creek, LLC has reached an agreement with the Hickory Knolls property owners to allow for this project to occur, and he stated Coachlight Drive will provide a logical connection with 91st Street and he believes it will be classified as a minor collector street.

Duane Wittstock, City Engineer, confirmed that Coachlight Drive will be classified as a minor collector street. He explained the Hickory Knolls properties and their access road are outside the

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West Des Moines corporate limits, and when Whisper Ridge developed, there was an obligation put on Whisper Ridge for their pro rata share of the paving of future Coachlight Drive, but it was unclear who had rights to the access road. He stated this special assessment process, which has been vetted by the Finance and Administration Subcommittee and Public Works Subcommittee, required a compromise between all parties involved. He also stated there is a potential that Coachlight Drive could be extended through the Hickory Knolls development if the parcels should ever be subdivided, but regardless the road will service the Whisper Ridge and Sandals development and will probably branch to the south into the Sandals development and then tie into Mills Civic Parkway in some fashion.

Vote 15-411: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 6(f) Mayor Gaer indicated this was the time and place for a public hearing to consider 2015 Citywide Energy Savings, 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 September 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 Messerschmidt to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to ABC Electrical Services.

Council member Mickelson inquired how long staff expects it to take for the anticipated energy savings to make up for the costs of this project.

Duane Wittstock, City Engineer, responded staff expects the energy savings payback to take between two to ten years.

Vote 15-412: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 6(g) Mayor Gaer indicated this was the time and place for a public hearing to consider Dixie Acres Sanitary Sewer, 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 September 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.

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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 Synergy Contracting, LLC and Approval of Change Order #1.

Vote 15-413: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 7(a) Woodland Hills of West Des Moines Plat 2, southwest corner of Cascade Avenue and South 91st Street - Subdivide Property into 19 Postage Stamp Lots for Detached Townhome Development, initiated by Jerry Bussanmas, LLC

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

1. Once the detention facility is completed, and prior to issuance of an occupancy permit, including temporary occupancy, for the last townhome constructed, a letter and as-built drawings, signed and sealed in accordance with Chapter 6, 193C-6.1(542B) of the Iowa Code shall be submitted to the Planning Division.

Vote 15-414: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 7(b) Eldorado Estates, 1450 South Jordan Creek Parkway - Subdivide Property into 14 Lots for Single Family Development, initiated by Chayce Holdings, LLC

It was moved by Sandager, 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. The Eldorado Estates subdivision sign as depicted on the Landscape Plan is not approved as part of the Preliminary Plat approval. A separate review and approval of a sign permit shall be required to erect the sign. The sign location shall be located such that it does not interfere with the site triangle of the future intersection of Eldorado Point and the street that connects the property to the south; and
2. The landscaping as depicted on the Landscape Plan within the future right-of-way of the street connecting the property to the south shall be removed by the applicant at such time that the dedication of right-of-way is required to connect to the property to the south.

Vote 15-415: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

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On Item 7(c) Village of Ponderosa Plat 9, southeast corner of Blue Stem Circle and South Prairie View Drive - Subdivide Property into 43 Lots, Three Outlots for Private Streets, and One Outlot for Open Space for Single Family Development, initiated by Grayhawk Homes of Iowa, Inc.

It was moved by Sandager, second by Trevillyan 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. In conjunction with the recordation of the Final Plat, the applicant shall execute the appropriate maintenance responsibility agreements for streets, sewers, etc.;
2. Approval and recordation of the associated final plat shall be required prior to issuance of an occupancy permit, including temporary occupancy for any home within the development;
3. Public Improvement Construction plans shall be approved by the City Engineer prior to initiating work for any modifications to public utility lines; and,
4. For any building permit issued prior to approval of the final plat for lots 53, 54, or 55, the building placement and design shall meet all bulk regulations for the future lot being created with Village of Ponderosa Plat 9. It shall be the responsibility of the owner/builder to modify the home, at the owner/builder's expense, if built incorrectly and out of compliance with bulk regulations.

Vote 15-416: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes
Motion carried.

On Item 8 - Receive, File and/or Refer: no items

On Item 9 - Other Matters: none

The meeting was adjourned at 6:49 p.m.

Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Steven K. Gaer, Mayor