

March 21, 2016

West Des Moines City Council Proceedings
Monday, March 21, 2016

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, March 21, 2016 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 Sandager, second by Messerschmidt approve the agenda as presented.

Vote 16-085: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 2. Public Forum

Corey Halfhill, 16008 Tanglewood Drive, Urbandale, stated he is the owner of Central Iowa Vapors and President of IFAST (Iowans For Alternatives to Smoking and Tobacco). He spoke in opposition to Item 5(b) Amendment to City Code - Tobacco Free Parks, stating he does not believe e-cigarettes should be included in the proposed ordinance, as studies have shown that unlike tobacco products, e-cigarettes are not harmful.

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

Council member Sandager reported he attended a meeting of the Development and Planning Subcommittee, where discussion was held on the proposed Kum & Go to be located in the Mills Crossing development and the possibility of rezoning undeveloped Professional Commerce Park parcels to Office zoning to better meet market demands. The subcommittee also discussed a possible rezoning of the parcel at the southwest corner of Jordan Creek Parkway and Ashworth Road from Medium Density Residential to Office zoning.

Council member Trimble reported the Finance and Administration Subcommittee met and discussed the proposed Workforce Housing Loan Application for the Phenix Elementary School building project, the proposed storage area network expansion, a needs assessment related to the City's human resources/payroll system, a proposed RFP for an insurance broker, and the proposed changes to the list of official depositories.

Council member Messerschmidt reported the Public Works Subcommittee met and discussed issues related to the Fox Creek Sanitary Sewer project. He also reported the Greater Des Moines Convention and Visitor Bureau is discussing possible changes to the organization's financial structure.

On Item 4. Consent Agenda.

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

- a. Approval of Minutes of March 7, 2016 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 - 1. Blazin Wings, Inc. d/b/a Buffalo Wild Wings Grill & Bar, 6925 Mills Civic Parkway, Suite #115 - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 - 2. Chipotle Mexican Grill of Colorado, LLC d/b/a Chipotle Mexican Grill, 1551 Valley West Drive, Suite #224 - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 - 3. The After Midnight Group VIII, LLC d/b/a Cowboy Jacks, 5513 Mills Civic Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
 - 4. Windrum Enterprises, LLC d/b/a Fuddruckers, 6378 Mills Civic Parkway - Class BB Beer Permit with Sunday Sales - Renewal
 - 5. Gilroy's, LLC d/b/a Gilroy's Kitchen + Pub + Patio, 1238 8th Street - Class LC Liquor License with Sunday Sales and Outdoor Service - New
 - 6. C.C.W., LLC d/b/a Huhot Mongolian Grill, 4100 University Avenue, Suite 101 - Class BW Permit with Sunday Sales - Renewal
 - 7. Hy-Vee, Inc. d/b/a Hy-Vee Food Store & Drug Center #2, 1990 Grand Avenue - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
 - 8. Luna, LLC d/b/a Luna (f/k/a Vision Night Club), 2700 University Avenue, Unit 200 - Class LC Liquor License with Sunday Sales - Renewal
 - 9. Quik Trip Corporation d/b/a Quik Trip #517, 1451 22nd Street - Class LE Liquor License with Carryout Wine, Carryout Beer and Sunday Sales - Renewal
 - 10. BarleyBay, LLC d/b/a Twisted Vine Brewery, 3320 Westown Parkway - Class BB Beer Permit with Sunday Sales and Outdoor Service - New
- d. Approval of Lane Closures for Special Events:
 - 1. Lutheran Church of Hope Easter Services
 - 2. St. Patrick's 10K and 5K - Friendly Sons of St. Patrick
- e. Approval of Appointments:
 - 1. Revised 2016-17 Committee and Other Assignments
- f. Approval of Purchase - Storage Area Network Expansion
- g. Approval of Change Order #3 - South 8th Street Improvements - White Crane Road to County Line Road
- h. Approval of Official Depositories
- i. Order Construction:
 - 1. 2016 PCC Patching Program

2. South 88th Street Improvements - Booneville Road to Sugar Creek Drive
- j. Accept Work:
 1. 2013 Channel Repair Program
 2. 2015 Sump Pump Sewer Program
 3. 2015 HMA Resurfacing Program
 4. 22nd Street and Kingman Avenue Turn Lane Extension
- l. Approval and Acceptance of Storm Water and Sanitary Sewer Easements - Des Moines Plastic Surgery & Spa, 6420 Coachlight Drive
- m. Establish Public Hearing Regarding the Final Design, Site Selection and Consideration of Acquiring Agricultural Property - South 35th Street Bridge Replacement
- n. Approval and Acceptance of Purchase Agreements, Deeds and Easements - South 60th Street Improvements Project
- o. Acceptance of Property Interests - Maffitt Lake Road Extension

Vote 16-086: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 4(e)2 Approval of Appointments - Sister Cities Commission

Council member Trevillyan stated he has been informed that Sister Cities Commissioner Erika Cook has changed employers and no longer works in West Des Moines, and since she is also not a resident of West Des Moines, he is unsure if she meets the criteria to be reappointed to the commission.

It was moved by Trimble, second by Messerschmidt to approve Item 4(e)2 Approval of Appointments - Sister Cities Commission, excluding the reappointment of Erika Cook, as her reappointment will be deferred to allow staff to research if she still meets the criteria for appointment.

Vote 16-087: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 4(k) Approval of Workforce Housing Loan Program Application - Phenix Elementary School Building

Council member Trevillyan expressed concerns that it might be premature to approve the proposed loan at this time as the City is still waiting on a waiver from the U.S. Department of Housing and Urban Development related to this project.

Council member Trimble stated if the City is not granted the waiver, then the loan would be cancelled.

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It was moved by Trevillyan, second by Trimble to approve Item 4(k) Approval of Workforce Housing Loan Program Application - Phenix Elementary School Building.

Vote 16-088: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(a) Amendment to City Code - Title 9 (Zoning), Chapter 5 (Agricultural/Open Space and Residential Zoning Districts) and Chapter 10 (Performance Standards) - Amend City Code to Allow SIC 0279-9901: Apiary (Bee and Honey Farm/Beekeeping) as a Permitted Use in All Single Family Residential and Manufactured Housing Zoning Districts and Add Language to City Code Identifying Specific Regulations and Requirements for Beekeeping Operating Under SIC 0290-9901, 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 16-089: Messerschmidt, Mickelson, Sandager, Trevillyan..... 4 yes
Trimble..... 1 no
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 16-090: Messerschmidt, Mickelson, Sandager, Trevillyan..... 4 yes
Trimble..... 1 no
Motion carried.

On Item 5(b) Amendment to City Code - Title 7 (Public Ways and Property), Chapter 11 (Park Regulations) - Tobacco Free Parks, initiated by the City of West Des Moines

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

Council member Trevillyan expressed concerns that it will be very difficult for the City to enforce this ordinance, as it would be one of the Police Department's lowest priorities.

Gary Scott, Director of Parks and Recreation, explained this ordinance was proposed to promote the idea of health and wellness in the parks. He stated staff considered adopting it as a policy which would not be enforceable or an ordinance which would be enforceable, but staff would prefer it be enforceable. He acknowledged the police will not patrol the parks for this purpose,

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but the proposed ordinance would communicate a message to the public that the parks are a tobacco free environment.

Council member Trevillyan inquired why electronic cigarettes would also be banned by the proposed ordinance.

Mr. Scott stated it is still undetermined whether electronic cigarettes are harmful, and it would be easier for the City to enforce if the ordinance covers all forms of smoking and tobacco.

Beth Turner, American Lung Association, stated signage for the parks will be provided at no cost to the City, which will help with enforcement. She also stated that the cities of Grimes, Windsor Heights, Mitchellville, and Pleasant Hill have adopted similar ordinances for tobacco free parks. She noted that electronic cigarettes were included in the ordinance because they are not regulated by the Food and Drug Administration, so there is no way to ensure there are production standards.

Vote 16-091: 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 second reading of the ordinance.

Vote 16-092: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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

Vote 16-093: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(a) Amendment to City Code - Title 9 (Zoning), Chapter 2 (Zoning Rules and Definitions), Chapter 6 (Commercial, Office, and Industrial Zoning District), Chapter 10 (Performance Standards), and Chapter 15 (Off-Street Parking and Loading) - Establish Standards and Regulations Related to Indoor Self-Storage or Mini-Warehousing Facilities, initiated by the City of West Des Moines (Continued from January 26, 2016, February 8, 2016, and March 7, 2016)

It was moved by Messerschmidt, second by Sandager to adopt Motion - Continue Public Hearing to April 4, 2016

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Vote 16-094: 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 Intersection Improvements - 50th Street and Stonebridge Road Traffic Signal, 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 March 11, 2016 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 Iowa Signal, Inc.

Vote 16-095: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(a) Delavan Plat 3, southeast corner of EP True Parkway and South 26th Street - Subdivide Property and Merge Three Lots into Two Lots, initiated by Capital Homes of Iowa

It was moved by Messerschmidt, 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. No grading can be conducted on the property until a Grading Plan is approved by the Plan and Zoning Commission. A Grading Plan to initiate grading on the site can be submitted separately or as part of the Site Plan application.
2. No development can occur on any lot until a Site Plan is approved by the Plan and Zoning Commission and the City Council.
3. All improvement obligations typically identified as part of the Preliminary Plat and executed/established in conjunction with the Final Plat will be required of each parcel as part of the Site Plan Permit process. Current and future owners shall be made aware of this obligation.
4. Subsequent development of either parcel will need to comply with the BEH II PUD Ordinance and all City Code requirements unless otherwise modified by the appropriate approval body as part of the Site Plan approval.

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5. A Cross Access Agreement between lots 1 and 2 to allow for a secondary access in the event of an emergency or in the event of street or utility maintenance/repairs must be recorded with the Final Plat. As part of the Site Planning process, the specific area of the cross access drive location may be refined with an amendment to the original agreement.
6. If Lot 1 and Lot 2 are to be developed at different times, the emergency connection drive shall be constructed with the first phase. The City will expect the owner of the first developing parcel to construct the drive. Any private agreements necessary to address obligations and cost sharing between the two property owners should be worked out and formally established as part of property purchase.

Vote 16-096: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(b) Mill Ridge, southwest corner of South 88th Street and Stagecoach Drive - Plat Property into 60 Lots for Single Family Development, 240 Lots for Townhome Development, 4 Lots for Common Areas, 7 Street Lots, and One Outlot for Detention, initiated by Hubbell Realty Company

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. Applicant acknowledging that if the applicant chooses to make changes after the preliminary plat, final plat and site plan are approved, updates will need to be made to all three of the said plats and plans each time the layout changes.
2. Applicant acknowledging that several street rights-of-ways and easements shall be vacated prior to the approval of the associated Final Plat.
3. During the approval of the Final Plat, the applicant shall provide suitable parkland dedication for the Miller Property as required by ordinance.
4. The applicant receiving City approval of Public Improvement Construction Plans for any public improvements prior to implementation of said improvements. Additionally, the applicant acknowledging that public improvements must be constructed and accepted by the city prior to issuance of any occupancy permits, including temporary occupancy permits for any dwelling within the plat.
5. Applicant acknowledging that the associated Final Plat must be approved by the City and recorded with the County prior to the issuance of any building permits, including footing and foundation permits for any lot within the plat.

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6. Applicant providing suitable access roads to the satisfaction of the City's Fire Marshal prior to issuance of any building permits for above ground construction.

Vote 16-097: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(c) Microsoft Alluvion, 550 SE White Crane Road - Approval to Allow Two Additional Temporary Tents, initiated by Turner Construction Company

It was moved by Messerschmidt, 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. The City Council granting the applicant approval to leave the temporary tent and storm shelter structures erected throughout the duration of the construction of the Microsoft Alluvion project;
2. The applicant providing the appropriate revised Storm Water Management Plan (SWMP) or compliance letter to the City prior to installation of the tents and relocation of any existing structures;
3. The applicant obtaining Tent Permits from the City's Fire Marshal's Office prior to installation and requesting all necessary inspections as the structures are installed. Additionally, the applicant agreeing to provide all safety measures within the tents and storm shelter structures determined to be necessary by the City's Fire Marshal; and,
4. The applicant agreeing that both the tents and storm structures shall be removed within sixty (60) days upon completion of the Microsoft Alluvion site development. Additionally, the tents shall be removed from the site should construction activities on site cease for a period of six months.

Vote 16-098: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 8(a) Fox Valley, generally located south of SE Adams Street and west of Orilla Road - Rezone Property to Adjust Locations and Acreages of Single Family and Medium Density Residential - Charles I. and Ruth Colby National Development Trust - Referred to Plan and Zoning

On Item 9 - Other Matters: none

The meeting was adjourned at 6:04 p.m.

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Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Steven K. Gaer, Mayor