July 10, 2017

West Des Moines City Council Proceedings
Monday, July 10, 2017

Mayor Pro tem Rick Messerschmidt 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, June 26, 2017 at 5:30 PM. Council members present were: R. Messerschmidt and R. Trimble. Council members J. Mickelson and J. Sandager participated via telephone.

City Clerk Ryan Jacobson stated staff is recommending that Item 5(a) Jordan Creek Business Park Specific Plan Amendment be continued to August 7, 2017.

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

Vote 17-386: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

On Item 2. Public Forum

Wendy Lacina, 537 2nd Street, stated she received a consent letter from the City regarding an upcoming phase of the Valley Junction Alley Improvements project that will impact the alley behind her home. She expressed concerns that the consent letter does not state whether her fence is on her property or the City's right-of-way and does not include an end date for the project, and suggested that those letters should provide that information. She noted she had recently reconstructed part of her fence after inquiring with the City and learning no permit would be needed, and since she perceived that response to indicate the fence was rightfully on her private property, she believes she is receiving conflicting information now that she is being told her fence sits on the City's right-of-way. She requested clarification from the City, and if the fence is in fact encroaching on the City's right-of-way, she would request restitution for the repairs she had recently done when she believed it was on her private property. She also expressed concerns about flooding that she believes could occur on her property as a result of this alley improvements project.

Claire Celsi, 4400 EP True Parkway, Unit 52, spoke in opposition to the City's ordinance allowing the use of fireworks on July 4th, citing concerns that children were using fireworks without supervision, fireworks were used outside of the allowed timeframe, and people were using fireworks unsafely. She also expressed concerns about fireworks-related injuries and structure fires, worsened air quality, and the negative impact to our community's quality of life. She requested the City Council consider a complete ban on the use of fireworks in West Des Moines.

Randle Boyd, 1351 South 51st Street, spoke in opposition to the City's ordinance allowing the use of fireworks on July 4th, citing concerns that fireworks were used outside of the allowed

timeframe, and the noise disturbed his quality of life and terrified his dog. He requested the City Council consider a complete ban on the use of fireworks in West Des Moines.

Davin Jones, 1427 South 50th Place, spoke in opposition to the City's ordinance allowing the use of fireworks on July 4th, citing concerns about the noise disturbing his quality of life and terrifying his dogs, fireworks were used outside of the allowed timeframe, and litter and debris from fireworks ended up on his property.

Nancy Boyd, 1351 South 51st Street, spoke in opposition to the City's ordinance allowing the use of fireworks on July 4th, citing concerns that it takes up significant time of the Police and EMS departments. She also expressed concerns about fireworks-related injuries, potential property damage, and the noise disturbing her quality of life.

Mayor Pro tem Messerschmidt stated the fireworks issue was handed down to cities by the Iowa Legislature, and there wasn't a lot of time to develop an ordinance, but the City Council sought a fair compromise with the ordinance allowing the use of fireworks on July 4th only. He noted the matter will be brought to the next meeting of the Public Safety Subcommittee for discussion about how to proceed.

Council member Trimble noted the community was deeply divided on the fireworks issue, and the compromise ordinance to allow the use of fireworks on July 4th only was essentially a trial run, and the City Council is now listening to all the feedback coming from residents to determine how to proceed.

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

On Item 4. Consent Agenda.

Council members pulled Items 4(h), 4(n)2, 4(q), and 4(w) for discussion. It was moved by Trimble, second by Messerschmidt to approve the consent agenda as amended.

a. Approval of Minutes of June 26, 2017 Meeting
b. Approval of Bill Lists
c. Approval of Liquor Licenses:
    1. 34's Sports Grill Valley West, LLC, d/b/a 34's Sports Grill, 1551 Valley West Drive, Suite 253 - Class LC Liquor License with Sunday Sales - Renewal
    2. 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
    3. Fordad, Inc., d/b/a Cattoor's on Grand, 1306 Grand Avenue - Class LC Liquor License Extension of Outdoor Service - July 15, 2017
    4. The Cheesecake Factory Restaurants, Inc., d/b/a The Cheesecake Factory, 101 Jordan Creek Parkway #12550 - Class LC Liquor License with Sunday Sales and

Outdoor Service - Renewal

5. NVN WDM, LLC d/b/a Courtyard Des Moines West/Jordan Creek, 410 South 68th Street - Class LB Liquor License with Sunday Sales - New
6. 50th Street Sports, LLC d/b/a Draught House 50, 1300 50th Street, Suite 206 - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
7. Frank's Divine Pie 8950, d/b/a Gusto Pizza Company, 8950 University Avenue - Class BW Permit with Sunday Sales and Outdoor Service - Renewal
8. Hy-Vee, Inc. d/b/a Hy-Vee Market Grille #4, 555 South 51st Street (Grille Area) - Class LC Liquor License with Sunday Sales - Renewal
9. Jordan Creek Lodging, LLC, d/b/a Hyatt Place at Jordan Creek, 295 South 64th Street - Class LB Liquor License with Sunday Sales, Outdoor Service, and Catering Privileges - Renewal
10. Cinderella Story, LLC, d/b/a Shotgun Betty's - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
11. The Wine Experience at Jordan Creek, LC d/b/a The Wine Experience at Younkers Jordan Creek, 101 Jordan Creek Parkway, Building 6000 - Add Outdoor Service Privileges to Existing Class BW Permit

d. Approval of Extended Sound Permit - Cattoors on Grand, 1306 Grand Avenue

e. Approval of Special Event Lane Closures - Solheim Cup, August 14 -20, 2017

f. Approval of Appointments - Human Services Advisory Board

g. Approval of Amendment to Professional Services Agreement - WestLAB Facilitation - David Lyons

i. Approval and/or Ratification of Specific Fees and Charges - 2017-18 FY

j. Direct Advertisement for Sale, Approval of Electronic Bidding Procedures and Approval of Official Statement:
   1. $7,650,000 General Obligation Bonds, Series 2017A
   2. $5,070,000 General Obligation Urban Renewal Bonds, Series 2017B
   3. $9,975,000 General Obligation Urban Renewal Bonds, Series 2017C
   4. $25,555,000 General Obligation Urban Renewal Bonds, Series 2017D
   5. $3,780,000 General Obligation Refunding Bonds, Series 2017E

k. Acceptance of Iowa Department of Transportation Traffic Safety Improvement Program (TSIP) Funds - Radar Technology Traffic Signal Vehicle Detection Units

l. Approval of Deer Management Zone - Raccoon River Park

m. Approval to Extend 28E Agreement - Westside Fire/EMS

n. Order Construction:
   1. 39th Street Parking Lot

o. Accept Work - Community Center Interior Renovations

p. Approval of Professional Services Agreements:
   1. The Parkways Wetlands Delineation
   2. Johnson Creek Realignment

r. Approval of State Economic Development Financial Incentives Assistance - Zirous, Inc.

s. Approval of Addressing - 111 South 11st Street

t. Approval and Acceptance of Condemnation Award, Purchase Agreements and Property Interests - Ashworth Road Improvements Project - Phase 1
u. Approval and Acceptance of Purchase Agreements and Property Interests - Ashworth Road Improvements Project - Phase 2
v. Approval of an Extension of Temporary Modification to PUD Restrictions - Martin Marietta Materials Rock Crushing

Vote 17-387: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

On Item 4(h) Approval of Professional Services Agreement - Amphitheater Design Development

Council member Sandager inquired about how the consultant was selected.

Sally Ortgies, Parks and Recreation Director, responded the City contracted with Confluence about a year ago to do a conceptual plan for the amphitheater. Now that there is partial funding for the amphitheater project, staff is requesting approval to hire a consultant to refine the conceptual design, and it makes logical sense to continue with Confluence since they have already done preliminary work for this project.

It was moved by Sandager, second by Messerschmidt to approve Item 4(h) Approval of Professional Services Agreement - Amphitheater Design Development.

Vote 17-388: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

On Item 4(n)2 Order Construction - Raccoon River Park Portable Toilet Enclosures

Council member Trimble expressed appreciation to the Mintzer family for their generous donation towards this project.

It was moved by Trimble, second by Messerschmidt to approve Item 4(n)2 Order Construction - Raccoon River Park Portable Toilet Enclosures.

Vote 17-389: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

On Item 4(q) Establish Just Compensation and Approve Acquisition of Property - Ashworth Road Improvement Project - Phase 2 (81st Street to 88th Street)

Council member Mickelson requested staff give an update on this project.

Brian Hemesath, Interim City Engineer, responded the acquisitions for Phase 1 of this project are nearly completed, and the acquisitions for Phase 2 are in progress. The construction of Phase 1 is scheduled to be bid later this month, so the underground work is expected to begin soon afterwards, which will require the closure of Ashworth Road from Jordan Creek Parkway to 81st Street. It will be reopened for the winter, and then closed again during the spring of 2018 for paving, and the construction of Phase 2 is also scheduled to occur in 2018.

It was moved by Mickelson, second by Messerschmidt to approve Item 4(q) Establish Just Compensation and Approve Acquisition of Property - Ashworth Road Improvement Project - Phase 2 (81st Street to 88th Street).

Vote 17-390: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

On Item 4(w) Proclamation - Parks and Recreation Month, July 2017

Mayor Pro tem Messerschmidt read Proclamation - Parks and Recreation Month.

It was moved by Messerschmidt, second by Trimble to approve Item 4(w) Proclamation - Parks and Recreation Month, July 2017.

Vote 17-391: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

On Item 5(a) Jordan Creek Business Park, Village View Drive between South 60th Street and South 64th Street - Specific Plan Amendment to Allow SIC 4225 "Self-Service Storage Facility - Interior Unit Access with no Outside Storage Yard" as a Permitted Use, initiated by Rueter & Zenor Company and Rueter Corporation

It was moved by Trimble, second by Messerschmidt to continue Item 5(a) Jordan Creek Business Park Specific Plan Amendment to August 7, 2017.

Vote 17-392: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

On Item 5(b) Phenix, northeast corner of 7th Street between Walnut Street and Locust Street - Amend the Planned Unit Development (PUD) to Modify Parcel Boundaries, initiated by the City of West Des Moines

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

Vote 17-393: Messerschmidt, Mickelson, Sandager, Trimble…4 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 17-394: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

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

Vote 17-395: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

On Item 5(c) Amendment to City Code - Title 8 (Building Regulations), Chapter 2 (Building Codes), Article A (Building Code), initiated by the City of West Des Moines

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

Vote 17-396: Messerschmidt, Mickelson, Sandager, Trimble…4 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 17-397: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

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

Vote 17-398: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

On Item 5(d) Amendment to City Code - Title 7 (Public Ways and Property), Chapter 8 (Sewer Regulations) - Quail Park/Thornwood and Ashworth Road Grinder Pump Service, initiated by the City of West Des Moines (Continued from May 15, 2017)

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

Vote 17-399: Messerschmidt, Mickelson, Sandager, Trimble…4 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 17-400: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

On Item 5(e) Professional Services Agreement - Independent Contractor for Sister Cities Commission, initiated by TBL Ventures, LLC

It was moved by Trimble, second by Messerschmidt to adopt Resolution - Approval to Extend Agreement.

Vote 17-401: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

On Item 6(a) Mayor Pro tem Messerschmidt indicated this was the time and place for a public hearing to consider Valley Junction Alley Improvements, Phase 4, 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 June 30, 2017 in the Des Moines Register. Mayor Pro tem Messerschmidt asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Pro tem Messerschmidt asked if there were any public comments.

Wendy Lacina, 537 2nd Street, reiterated the comments she made earlier during the public forum portion of the meeting. Her concerns related to consent letters sent by the City for a different phase of the Valley Junction Alley Improvements project, which do not specify whether a resident's fence sits on their private property or the City's right-of-way and do not include an end date for the project. She also expressed concerns about flooding that she believes could occur on her property as a result of this alley improvements project.

Jack Hon, 212 7th Street, stated he also received a consent letter for a different phase of the Valley Junction Alley Improvements project, and he expressed concerns that the letter included an error with the property address.

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

Rod VanGenderen, Chief Building Official, stated there are no surveys done when a property owner obtains a fence permit, and he noted the permit applications state: "Confirming property lines, buried utilities, easements, restrictive covenants, or association requirements are strictly the responsibility of the owner and/or contractor."

Ms. Lacina inquired if the survey of her property line along the alley done for the Valley Junction Alley Improvements project could be made available to her.

Brian Hemesath, Interim City Engineer, responded the survey for Phase 4 has been completed and is available. However, the survey for the phase including the alley behind Ms. Lacina's home has not yet been completed. He stated he will reach out to Ms. Lacina to address all of her concerns.

Bret Hodne, Public Services Director, stated the surveys are being done for each phase of the Valley Junction Alley Improvements project so the City could define exactly where the property lines of the City's right-of-way are. He also addressed Ms. Lacina's concerns about flooding, stating the sump pumps should not back up water towards the home.

It was moved by Trimble, second by Messerschmidt to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Alliance Construction Group, LLC.

Vote 17-402: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

On Item 6(b) Mayor Pro tem Messerschmidt indicated this was the time and place for a public hearing to consider 2016 Channel Repair Program, 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 June 30, 2017 in the Des Moines Register. Mayor Pro tem Messerschmidt asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Pro tem Messerschmidt 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 Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to McGreger Corporation.

Vote 17-403: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

On Item 7(a) Amendment to City Code - Title 6 (Motor Vehicles and Traffic), Chapter 9 (Traffic Schedules), Section 7 (U-Turn Prohibited) - Mills Civic Parkway and South Prairie View Drive (westbound), 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 17-404: Messerschmidt, Mickelson, Sandager, Trimble…4 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 17-405: Messerschmidt, Mickelson, Sandager, Trimble…4 yes
Motion carried.

On Item 8(a) Microsoft DSM09 (Osmium), generally located west of I-35 at the intersection of 110th Street and 10th Avenue in Madison and Warren County - Amend Comprehensive Plan Land Use Map and Amend Zoning Map for Light Industrial for Construction of a Data Center - City Initiated - Referred to Plan and Zoning

On Item 8(b) Villas on Ashworth, 8585 Ashworth Road - Amend the Comprehensive Plan Land Use Map from Office to High Density Residential and Community Commercial and Designate Residential High Density Zoning and Community Commercial Zoning - Fink Enterprises, LC and Stephen and Deborah Fink - Referred to Plan and Zoning

On Item 8(c) WDM Water Works Audit - 2015 and 2016 - Received and Filed

On Item 8(d) Michele Brown Resignation - Plan and Zoning Commission - Received and Filed

On Item 8(e) Spencer Cox Resignation - Bicycle Advisory Commission - Received and Filed

On Item 9 - Other Matters

Council member Trimble requested an update on the speed limit study for Grand Avenue, between South 50th Street and the Raccoon River Park entrance.

Brian Hemesath, Interim City Engineer, responded the City has accepted work on the Grand Avenue Improvements project, but is now waiting for final acceptance from the Iowa Department of Transportation, and staff will complete the study as quickly as possible after that.

July 10, 2017

The meeting was adjourned at 6:38 p.m.

Respectfully submitted,

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Ryan T. Jacobson, CMC
City Clerk

ATTEST:

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Rick Messerschmidt, Mayor Pro tem