

December 27, 2017

West Des Moines City Council Proceedings
Wednesday, December 27, 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 Wednesday, December 27, 2017 at 5:30 PM. Council members present were: R. Messerschmidt, J. Mickelson, K. Trevillyan, and R. Trimble.

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

Vote 17-700: Messerschmidt, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

Council member Sandager arrived at 5:31 p.m. The attendance was re-taken. Council members present were: R. Messerschmidt, J. Mickelson, J. Sandager, K. Trevillyan, and R. Trimble

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

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

Council member Trimble reported the Finance and Administration Subcommittee met, where discussion was held on proposed adjustments to admission rates for the aquatic centers. The subcommittee also discussed outcomes of the Regulatory Compliance Fund and Property Improvement Program and possible amendments to the Property Tax Rebate Program.

On Item 4. Consent Agenda.

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

- a. Approval of Minutes of December 11, 2017 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 1. LLK Inc. d/b/a Funny Bone Comedy Club & Restaurant, 560 South Prairie View Drive, Suite 100 - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 2. Kum & Go, L.C., d/b/a Kum & Go #2035, 7265 Vista Drive - Class LE Liquor License with Carryout Wine, Carryout Beer and Sunday Sales - Renewal
 3. Occasions Catering, LLC d/b/a Occasions Catering, 7929 Ashworth Road - Class LC Liquor License with Sunday Sales, Outdoor Service, and Catering Privileges - Renewal

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4. The Tangerine Food Company d/b/a The Tangerine Food Company, 1960 Grand Avenue, Suite #21 - Class LC Liquor License with Sunday Sales and Catering Privileges - Renewal
- e. Approval of 2018 and 2019 Committee/Liaison Assignments
- g. Approval of Park Use Agreement - West Des Moines Girls Softball Association
- h. Approval of Professional Services Agreements:
 1. Fairmeadows Park Water Quality Improvements
 2. Marketing Services - Five Waters Project
- i. Approval of Amendment to Professional Services Agreement - City Campus Amphitheater
- j. Approval and/or Ratification of Specific Fees and Charges - 2017-18 FY
- k. Accept Work - 2016 Sewer Cleaning and Televising Program
- l. Approval of Lease Agreement - Microsoft DM04 Project, 8855 Grand Avenue
- m. Approval and Acceptance of Purchase Agreements and Property Interests:
 1. Project Osmium Public Infrastructure (Veterans Parkway Improvements, SE Maffitt Lake Road to SE Adams Street)
 2. Project Osmium Public Infrastructure (Veterans Parkway Improvements, SE Adams Street to SE 50th Street)

Vote 17-701: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 4(d) Approval of Appointment - Water Works Board of Trustees

Council member Trevillyan stated he will abstain on this item due to a potential conflict of interest.

It was moved by Sandager, second by Trimble to approve Item 4(d) Approval of Appointment - Water Works Board of Trustees.

Vote 17-702: Messerschmidt, Mickelson, Sandager, Trimble...4 yes
Trevillyan... 1 abstain due to potential conflict of interest
Motion carried.

Council member Trimble expressed appreciation to Karen Novak Swalwell for her service on the Water Works Board of Trustees.

On Item 4(f) Approval of Appointment - City Clerk

Council member Trevillyan expressed appreciation to City Clerk Ryan Jacobson for his service.

It was moved by Trevillyan, second by Sandager to approve Item 4(f) Approval of Appointment - City Clerk.

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Vote 17-703: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(a) Amendment to City Code - Title 3 (Business and Licensing), Chapter 6 (Massage Establishments and Technicians) - Establish Regulations for Massage Therapy Businesses, initiated by the City of West Des Moines

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

Vote 17-704: 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 second reading of the ordinance.

Vote 17-705: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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

Vote 17-706: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Trimble, second by Trevillyan to adopt Resolution - Approval of Specific Fees and Charges.

Vote 17-707: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(a) Mayor Pro Tem Messerschmidt indicated this was the time and place for a public hearing to consider Aspen Valley, 800 and 900 blocks of 84th Street - Vacate a 30 ft. Buffer Park Easement Located Along Rear Lot Line of Lots 53-60, Aspen Valley, initiated by the property owners. He asked for the date the notice was published and the City Clerk indicated the notice was published on December 11, 2017 in the Des Moines Register. Mayor Pro Tem Messerschmidt asked if any written comments had been received. The City Clerk stated on a vote of 6-0, with one member absent, the Plan and Zoning Commission recommended City Council approval of the vacation request.

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

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Council member Trimble inquired if this request includes all the properties impacted by the buffer park easement

Lynne Twedt, Development Services Director, responded this vacation request does include all the properties impacted by the easement, as the request can only be considered if signed by all the impacted property owners.

It was moved by Trimble, second by Sandager to adopt Resolution - Approval of Vacation Request.

Vote 17-708: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(b) Mayor Pro Tem Messerschmidt indicated this was the time and place for a public hearing to consider Amendment to City Code - Title 9 (Zoning), Chapter 2 (Zoning Rules and Definitions), Chapter 5 (Agricultural/Open Space and Residential Zoning District), and Chapter 10 (Performance Standards) - Update Definitions and Regulations Pertaining to Alternative Residential Structures, 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 December 11, 2017 in the Des Moines Register. Mayor Pro Tem Messerschmidt asked if any written comments had been received. The City Clerk stated on a vote of 6-0, with one member absent, the Plan and Zoning Commission recommended City Council approval of the ordinance amendment.

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

Council member Trimble inquired about the purpose for this proposed ordinance amendment.

Linda Schemmel, Development Coordinator, stated a few citizens have expressed interest in "tiny homes", so this ordinance would address that dwelling type. Also, when staff reviewed this section of the City Code, they identified some items on these dwelling types that needed to be cleaned up. She responded to questions from the Council, explaining that if a tiny home is sitting on a foundation, it would be considered as any other residential structure and require a garage. If a tiny home is on wheels, it could be moved at any time and would require parking but not an enclosed garage. She explained that a manufactured home on a single family lot would also be considered as any other residential structure and require a garage, however the City is limited by State law on imposing certain regulations on manufactures homes in manufactured home parks.

It was moved by Trimble, second by Mickelson to consider the first reading of the ordinance, with the correction as noted by the memorandum from staff.

Vote 17-709: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Mickelson to approve the first reading of the ordinance, with the correction as noted by the memorandum from staff.

Vote 17-710: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(c) Mayor Pro Tem Messerschmidt indicated this was the time and place for a public hearing to consider Amendment to City Code - Title 9 (Zoning), Chapter 6 (Commercial, Office and Industrial Zoning District), Section 6 (Commercial, Office and Industrial Use Regulations) - Regulate Variety Stores in the Neighborhood Commercial District, initiated by Wellington Square, LLC. He asked for the date the notice was published and the City Clerk indicated the notice was published on December 11, 2017 in the Des Moines Register. Mayor Pro Tem Messerschmidt asked if any written comments had been received. The City Clerk stated on a vote of 6-0, with one member absent, the Plan and Zoning Commission recommended City Council approval of the ordinance amendment.

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

Andy Hodges, Signature Commercial Real Estate, 9500 University Avenue, reported this application was submitted to allow for the building formerly occupied by Ace Hardware to be backfilled by Dollar Tree. He noted the Dollar Tree store would occupy approximately 9,000 sq. ft. of that 12,000 sq. ft. building, and they are hoping to open in summer 2018.

Jeremy Christiani, 1100 50th Street, Unit 1102, spoke in opposition to the proposed ordinance, citing concerns that this would allow variety stores in all neighborhood commercial districts across the entire city, and he does not believe such stores are a good fit for neighborhood commercial. He noted this particular case could be resolved by simply amending the specific PUD to allow variety stores. He also cited concerns about the potential negative impacts on neighborhood commercial districts as a result of trucks loading and unloading at variety stores.

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

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

Lynne Twedt, Development Services Director, responded to questions from the Council, stating staff has taken the stance that the city should avoid using PUD's to allow uses that would not otherwise be allowed in a zoning district. She also noted that the proposed ordinance would only allow variety stores up to 10,000 sq. ft. in a neighborhood commercial district.

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Council member Mickelson stated he is comfortable with the proposed ordinance because of the 10,000 sq. ft. limit, as he believes the neighborhood impact from a variety store of that size would be similar to a convenience store, which is already allowed in neighborhood commercial districts.

Ms. Twedt also noted grocery stores are allowed in neighborhood commercial districts with no size restrictions, which staff would generally consider to have a higher impact on a neighborhood than a small variety store.

Council member Trimble stated he agrees the variety store use fits well at this location, but he expressed concerns that it may not be a good fit for all neighborhood commercial districts.

Ms. Twedt noted there are only a few neighborhood commercial areas throughout the city. She agreed to a request from the Council to provide information on the code definition of a variety store and the locations of neighborhood commercial areas in West Des Moines before the next City Council meeting.

Vote 17-711: 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 17-712: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(d) Mayor Pro Tem Messerschmidt indicated this was the time and place for a public hearing to consider City of Grimes \$4,590,000 Revenue Refunding Bonds - Host City Approval of Refunding Bonds for Walnut Creek YMCA Project, initiated by the City of Grimes and YMCA of Greater Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on December 15, 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 Trevillyan, second by Trimble to adopt Resolution - Approval to Proceed with Refunding Bonds.

Vote 17-713: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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On Item 7(a) AFM Bentley Center (f/k/a Vista Retail Center), 5045 Bentley Drive - Construction of a 17,000 sq. ft. Retail Building, initiated by Mian, Inc.

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

Vote 17-714: Messerschmidt, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 8(a) West Des Moines Water Works - 2018 Budget - Received and Filed

On Item 9 - Other Matters

There was nothing to discuss at this time for "Legislative Updates."

The Council members expressed appreciation to outgoing Council member Messerschmidt for his service to the community.

Council member Messerschmidt stated he enjoyed his time serving on the City Council and working with the other elected officials and City staff.

The meeting was adjourned at 6:14 p.m.

Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Rick Messerschmidt, Mayor Pro Tem