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West Des Moines City Council Proceedings
Monday, March 5, 2018

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 5, 2018 at 5:30 PM. Council members present were: R. Hardman, J. Mickelson, J. Sandager, and K. Trevillyan. Council member R. Trimble participated via telephone.

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

Vote 18-103: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 2. Public Forum

Gayle Perbera, 837 23rd Street, expressed concerns about issues with her West Des Moines Water Works account.

Mayor Gaer requested that City staff reach out West Des Moines Water Works staff to address Ms. Perbera's concerns.

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

Fire Chief Craig Leu introduced Fire Lieutenant Neil Weglarz and Firefighters Joshua Brady and Jordan Hedrick, who were then sworn in by Mayor Gaer.

The West Des Moines Robotics Club presented an update on their activities and demonstrated some of the features of the robot they constructed. They also expressed appreciation to the City for its support of their club.

Michael McCoy, Executive Director of the Metro Waste Authority, provided a presentation on the organization's current operations and facilities.

Council member Sandager reported the Finance and Administration Subcommittee met and held discussion on funding options for potential roadway projects. The Legislative Subcommittee also met and discussed SF 2081, which would eliminate the state backfill for cities. He also reported he attended a ribbon cutting ceremony at KCL Engineering.

Council member Mickelson reported the Development and Planning Subcommittee met, where a presentation was given on proposed entrance signs around the city. He also reported he spoke on behalf of the City at Valley Southwoods Freshman High School for diversity week.

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Council member Hardman congratulated KCL Engineering on a successful ribbon cutting ceremony. She also reported she participated in a conference at Drake University that taught young girls about how to brand themselves.

City Manager Tom Hadden reported the special election for a Polk County local option sales and service tax will be held tomorrow, and there is further information available on the City's website.

On Item 4. Consent Agenda.

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

- a. Approval of Minutes of February 20, 2018 and February 23, 2018 Meetings
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 1. Revenge Is a Dish, LLC d/b/a Blue Moon Dueling Piano Bar and Restaurant, 5485 Mills Civic Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service - New
 2. Century Theatres, Inc. d/b/a Century 20 Jordan Creek and XD, 101 Jordan Creek Parkway, Unit 2000 - Class BW Permit with Sunday Sales - Renewal
 3. Git N Go Convenience Stores, Inc. d/b/a Git N Go Convenience Store #4, 1325 Grand Avenue - Class BC Beer Permit with Sunday Sales - Renewal
 4. C.C.W., LLC d/b/a Huhot Mongolian Grill, 4100 University Avenue, Suite 101 - Class BW Permit with Sunday Sales - Renewal
 5. Hy-Vee, Inc. d/b/a Hy-Vee Meeting Room, 1725 Jordan Creek Parkway - Transfer Location Temporarily to 1236 Jordan Creek Parkway (SpringHill Suites) - April 11-12, 2018
 6. Sri Ganesh, LLC d/b/a Paradise Biryani Pointe, 6630 Mills Civic Parkway, Suite 3102 - Class BW Permit with Native Wine and Sunday Sales - Renewal
 7. 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
 8. Scotty's Pub 1, LLC d/b/a Scotty's Pub & Grill, 3781 EP True Parkway - Class LC Liquor License Extension of Outdoor Service - March 16-18, 2018
 9. BarleyBay, LLC d/b/a Twisted Vine Brewery, 3320 Westown Parkway - Class BB Beer Permit with Sunday Sales and Outdoor Service - Renewal
 10. W West Investments, LLC d/b/a Wellman's West, 597 Market Street - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 11. W West Investments, LLC d/b/a Wellman's West Rooftop, 597 Market Street (Rooftop) - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 12. Cost Plus, Inc. d/b/a World Market, 4100 University Avenue, Suite 210 - Class BC Beer Permit with Carryout Wine and Sunday Sales - Renewal
- d. Approval of Extended Sound Permit - Scotty's Pub and Grill, 3781 EP True Parkway

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- e. Approval of Contract Agreement - 2018 Street and Pavement Repair Supplemental Retainer Contract
- f. Approval of Mayor to Sign Application to Iowa Economic Development Authority for Nomination as an Opportunity Zone
- g. Approval of 28E Agreements:
 - 1. Des Moines Metropolitan Wastewater Reclamation Authority - Middle Creek Trunk Sewer Extension
 - 2. Youth Justice Initiative
- h. Order Construction:
 - 1. Raccoon River Drive Culvert near South Jordan Creek Parkway
 - 2. Valley Junction Activity Center Fire Escape Stairs
- i. Establish Public Hearing - Amendment #1 to Midtown Urban Renewal Area
- j. Approval of Lease Agreement for 3476 Adams Street, Cumming - Iowa Landscaping, LLC
- k. Approval and Acceptance of Purchase Agreements and Property Interests - Project Osmium Public Infrastructure

Vote 18-104: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(a) Amendment to City Code - Title 9 (Zoning), Chapter 7 (Setback and Bulk Density Regulations) - Update Setback Regulations Pertaining to Accessory Structures in Residential Estate Districts, initiated by the City of West Des Moines

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

Vote 18-105: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Hardman to approve the second reading of the ordinance.

Vote 18-106: Hardman, 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 18-107: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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On Item 5(b) Amendment to City Code - Title 6 (Motor Vehicles and Traffic), Chapter 9 (Traffic Schedules), Section 5 (All Night Parking Prohibited) - Elm Street, 4th Street to Alley between 6th Street and 7th Street, initiated by the City of West Des Moines

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

Vote 18-108: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 18-109: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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

Vote 18-110: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(c) Amendment to City Code - Title 6 (Motor Vehicles and Traffic), Chapter 9 (Traffic Schedules), Section 6 (Four Hour Limited Parking) - Elm Street, 4th Street to Alley between 6th Street and 7th Street, initiated by the City of West Des Moines

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

Vote 18-111: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Hardman to approve the second reading of the ordinance.

Vote 18-112: Hardman, 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 18-113: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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On Item 5(d) Future Funding for Redevelopment Incentive Programs in Historic West Des Moines, initiated by the City of West Des Moines

Mayor Gaer noted the Finance and Administration Subcommittee was split on this issue, so staff is seeking direction from the Council on how much funding, if any, should be allocated to this program in FY 2018-19.

It was moved by Trevillyan, second by Hardman to allocate \$250,000 from the City's reserve fund for this program in FY 2018-19 and to expand the eligible area to include other parts of the city.

Council members Sandager and Trimble expressed opposition to allocating additional funding at this time for FY 2018-19, citing concerns about the sustainability of a program and the uncertainty of the state backfill.

Council member Mickelson expressed support for allocating \$250,000 in FY 2018-19, as long as the eligible area is expanded to include other parts of the city.

Council member Hardman also expressed support for allocating \$250,000 in FY 2018-19.

Council member Sandager suggested this decision on funding for FY 2018-19 be deferred for two months, because the current legislative session will have ended by then.

The Council members held further discussion on the possibility of allocating additional funds to these programs.

Vote 18-114: Hardman, Trevillyan ... 2 yes
Mickelson, Sandager, Trimble ... 3 no

Motion failed.

Mayor Gaer directed staff to bring this item back for reconsideration on a future agenda of the Finance and Administration Subcommittee after the 2018 legislative session has ended.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider Covenant Cove, southeast corner of 98th Street and Bishop Drive - Approval of a Comprehensive Plan Land Use Amendment to Amend the Land Use Map from Manufactured Housing to Medium Density Residential and an Amendment to the 98th Street Planned Unit Development (PUD) to Change Zoning from Manufactured Housing to Residential Medium Density and Establish Development Regulations, initiated by Covenant Cove, LLC (continued from February 20, 2018). He asked for the date the notice was published and the City Clerk indicated the notice was published on February 26, 2018 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 7-0, the Plan and Zoning Commission recommended City Council approval of the ordinance

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amendment, and one correspondence was received which was included with the council communication.

Mayor Gaer asked if there were any public comments.

Brent Culp, Snyder & Associates, speaking on behalf of the applicant, presented an overview of the proposed project.

Nick Jensen, 15614 Wilden Drive, Urbandale, stated his company owns property to the south and west of this proposed project. His property to the west is named Cove at Kettlestone, which some people shorten and refer to it as “the Cove”, so he is requesting that consideration be given to change the name of this proposed project from Covenant Cove to something without the word “cove” to avoid any confusion.

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

City Attorney Scieszinski suggested that Mr. Jensen communicate his request directly to the applicant.

It was moved by Sandager, second by Trevillyan to adopt Resolution - Approval of Comprehensive Plan Amendment.

Council member Trimble expressed concerns about the possibility of having too many townhomes in the city. He inquired if the townhomes in the proposed project would be owner-occupied or rented.

David Albright, 3100 White Pine Court, Waukee, responded the proposed project is intended to be owner-occupied, and the price range will be approximately \$180,000 to \$260,000.

Vote 18-115: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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

Vote 18-116: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

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Vote 18-117: Hardman, 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 Amendment to City Code - Title 9 (Zoning), Chapter 2 (Zoning Rules and Definitions), Chapter 5 (Agricultural/Open Space and Residential Zoning District), Chapter 6 (Commercial, Office and Industrial Zoning District), and Add Chapter 20 (Medical Cannabidiol) - Establish Regulations and Allowances Related to Medical Cannabidiol, 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 February 26, 2018 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 6-0, with one member abstaining, the Plan and Zoning Commission recommended City Council approval of the ordinance amendment.

Mayor Gaer asked if there were any public comments.

Jeremy Christiani, 1100 50th Street, Unit 1102, expressed opposition to the proposed ordinance, citing concerns that the language is confusing and contradictory, and he believes it could result in a monopoly on the wholesale and retail distribution of medical cannibidiol.

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

The Mayor and Council held discussion on the proposed ordinance and a majority expressed support for amending it to delete the separation requirement from childcare facilities for dispensaries and to allow dispensaries in general industrial zoning districts.

Council member Trimble expressed support for keeping the separation requirement from childcare facilities in the ordinance, due to the similar nature of a school and a daycare with children present.

It was moved by Trevillyan, second by Sandager to consider the first reading of the ordinance, with an amendment to allow dispensaries in general industrial zoning districts and to delete the separation requirement from childcare facilities for dispensaries.

Vote 18-118: Hardman, 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 Sandager to approve the first reading of the ordinance, with an amendment to allow dispensaries in general industrial zoning districts and to delete the separation requirement from childcare facilities for dispensaries.

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Vote 18-119: Hardman, Mickelson, Sandager, Trevillyan ... 4 yes
Trimble ... 1 no

Motion carried.

It was moved by Trevillyan, second by Sandager, in accordance with Rule 36 of the City Council Procedural Rules to waive the second and third readings of the ordinance.

Vote 18-120: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Trevillyan, second by Sandager to adopt the ordinance in final form, with an amendment to allow dispensaries in general industrial zoning districts and to delete the separation requirement from childcare facilities for dispensaries.

Vote 18-121: Hardman, Mickelson, Sandager, Trevillyan ... 4 yes
Trimble ... 1 no

Motion carried.

On Item 6(c) Mayor Gaer 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 6 (Commercial, Office and Industrial Zoning District), and Chapter 14 (Accessory Structures) - Update Regulations Pertaining to Small Wind and Solar Energy Generating Systems and Define and Regulate Electric Vehicle Charging Stations, 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 February 17, 2018 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 7-0, the Plan and Zoning Commission recommended City Council approval of the ordinance amendment.

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

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

Vote 18-122: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 18-123: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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On Item 6(d) Mayor Gaer 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) - Allow within Industrial Zoning Districts Uses Related to Garbage Collection and Transport, Unattended Fuel Pumps and Public Safety and Order, 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 February 17, 2018 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 7-0, the Plan and Zoning Commission recommended City Council approval of the ordinance amendment.

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

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

Vote 18-124: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Hardman to approve the first reading of the ordinance.

Vote 18-125: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(e) Mayor Gaer indicated this was the time and place for a public hearing to consider Amendment #1 to the Osmium Urban Renewal Area, 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 February 23, 2018 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 Hardman to adopt Resolution - Approval of Urban Renewal Plan Amendment.

Vote 18-126: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(f) Mayor Gaer indicated this was the time and place for a public hearing to consider 2018-19 FY Operating and Capital Budget, initiated by the City of West Des Moines (continued from February 20, 2018). He asked for the date the notice was published and the City Clerk

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indicated the notice was published on February 16, 2018 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated.

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

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

The Council members expressed support for this proposed budget, as it will lower the property tax levy and add 17 new positions that are needed.

Vote 18-127: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(g) Mayor Gaer indicated this was the time and place for a public hearing to consider Issuance of Not to Exceed \$13,000,000 General Obligation Urban Renewal Bonds, initiated by the City of West Des Moines (continued from February 20, 2018). He asked for the date the notice was published and the City Clerk indicated the notice was published on February 16, 2018 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 Trimble, second by Sandager to adopt Resolution - Instituting Proceedings to Take Additional Action.

Vote 18-128: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(h) Mayor Gaer indicated this was the time and place for a public hearing to consider Issuance of Not to Exceed \$6,100,000 Essential Corporate Purpose General Obligation Bonds (ECP), initiated by the City of West Des Moines (continued from February 20, 2018). He asked for the date the notice was published and the City Clerk indicated the notice was published on February 16, 2018 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.

On Item 6(i) Mayor Gaer indicated this was the time and place for a public hearing to consider Issuance of Not to Exceed \$675,000 General Corporate Purpose General Obligation Bonds (GCP-1), initiated by the City of West Des Moines (continued from February 20, 2018). He

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asked for the date the notice was published and the City Clerk indicated the notice was published on February 16, 2018 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.

On Item 6(j) Mayor Gaer indicated this was the time and place for a public hearing to consider Issuance of Not to Exceed \$700,000 General Corporate Purpose General Obligation Bonds (GCP-2), initiated by the City of West Des Moines (continued from February 20, 2018). He asked for the date the notice was published and the City Clerk indicated the notice was published on February 16, 2018 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.

On Item 6(k) Mayor Gaer indicated this was the time and place for a public hearing to consider Issuance of Not to Exceed \$700,000 General Corporate Purpose General Obligation Bonds (GCP-3), initiated by the City of West Des Moines (continued from February 20, 2018). He asked for the date the notice was published and the City Clerk indicated the notice was published on February 16, 2018 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.

On Item 6(l) Mayor Gaer indicated this was the time and place for a public hearing to consider Issuance of Not to Exceed \$500,000 General Corporate Purpose General Obligation Bonds (GCP-4), initiated by the City of West Des Moines (continued from February 20, 2018). He asked for the date the notice was published and the City Clerk indicated the notice was published on February 16, 2018 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 Trevillyan to adopt Resolution - Instituting Proceedings to Take Additional Action and Authorizing the Issuance and Levying a Tax for Items 6(h) through 6(l).

Vote 18-129: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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On Item 6(m) Mayor Gaer indicated this was the time and place for a public hearing to consider Woodland Hills Park Tennis and Basketball Courts, 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 February 23, 2018 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 Trevillyan to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Minturn, Inc.

Vote 18-130: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(n) Mayor Gaer indicated this was the time and place for a public hearing to consider 2017 Intake 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 February 23, 2018 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 Hardman to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Hill Contracting.

Vote 18-131: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(o) Mayor Gaer indicated this was the time and place for a public hearing to consider Valley View and Holiday Aquatic Centers VFD Replacements, 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 February 23, 2018 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 Hardman to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Commonwealth Electric.

Vote 18-132: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(a) Property Tax Rebate Program - Request for Reconsideration of Application, initiated by Ballenger Real Estate, LLC

Mayor Gaer noted the applicants for Items 7(a) and 7(b) had submitted property tax rebate program applications after starting construction on their projects, and the program rules require the application to be submitted prior to construction. Both applicants requested reconsideration at a meeting of the Finance and Administration Subcommittee, but the subcommittee members recommended denial of their applications.

Council member Trimble reported the Finance and Administration Subcommittee recommended denial, because the project was well underway before they submitted their applications for the property tax rebate program, therefore the subcommittee believed the projects did not need the incentive. He noted the intent of the program was to provide an incentive for development projects that would not otherwise be able to happen without such an incentive.

Dr. Luke Ballenger, Ballenger Chiropractic and Acupuncture, stated he chose to locate his business in West Des Moines because he and his family love the community. He acknowledged that they did not comply with the application requirements, but he stated they did not have an attorney to help them through the process, so he was unaware that the application needed to be submitted prior to construction. He noted Downing Construction owned the land at the time the building permits were obtained. He also stated he believes these projects are what the property tax rebate program was intended for.

Dr. Ballenger responded to questions from the Council, stating the budget for this project was put together by his accountant, his broker, and his bank, and the project was fully-financed. He also stated his business' project budget that was submitted to the bank does include the property tax rebate.

Council member Mickelson inquired if the Council were to grant an exception in this case, would that set a precedent for the program going forward.

City Attorney Dick Scieszinski responded it would not set a binding precedent, as each application is discretionary to the Council. He also stated the applicant does not have any legal entitlement, so there would be no grounds to sue the City if any future application is denied.

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Council member Mickelson expressed support for granting an exception in this case, but he would not intend for it to set a precedent.

Council member Sandager also expressed support for granting an exception, as he believes the property tax rebate program was an incentive for their business to choose to locate in West Des Moines.

Kari Burns, Jordan Creek Pediatric Dentistry, the applicant for Item 7(b), reported her business has outgrown its current space, and they learned of the property tax rebate program from their bank. She requested forgiveness from the City Council, as they were unaware that the application needed to be submitted prior to construction. She also stated her business' project budget that was submitted to the bank does include the property tax rebate.

Council member Hardman expressed concerns that granting an exception in this case could set a precedent for other entities that don't comply with requirements to assume the Council should grant them an exception as well.

Council member Trimble arrived at 7:49 p.m. The attendance was re-taken. Council members present were: R. Hardman, J. Mickelson, J. Sandager, K. Trevillyan, and R. Trimble.

The Council members held further discussion on how to address these applications and whether or not this would set a precedent.

It was moved by Trevillyan, second by Trimble to adopt Resolution - Denial of Application.

Vote 18-133: Hardman, Trevillyan, Trimble ... 3 yes
Mickelson, Sandager ... 2 no

Motion carried.

On Item 7(b) Property Tax Rebate Program - Request for Reconsideration of Application, initiated by LTR Pointe, LLC

It was moved by Trevillyan, second by Trimble to adopt Resolution - Denial of Application.

Vote 18-134: Hardman, Trevillyan, Trimble ... 3 yes
Mickelson, Sandager ... 2 no

Motion carried.

On Item 7(c) 2018-19 FY Hotel/Motel Tax Allocations, initiated by the City of West Des Moines

Council member Trevillyan suggested the hotel/motel tax allocation for the Historic Valley Junction Foundation should be increased from \$125,000 to \$150,000.

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The Council members held discussion on the appropriate amount to allocate to the Historic Valley Junction Foundation.

City Manager Tom Hadden clarified the allocation for the Sister Cities Commission should be \$32,000. The number listed in the council communication is incorrect, so it needs to be amended.

Jim Miller, Executive Director of the Historic Valley Junction Foundation, responded to questions from the Council, stating the additional \$25,000 would be used to fund the District Improvement Grant (DIG) program.

It was moved by Trevillyan, second by Hardman to adopt Motion - Approval of Subcommittee Recommendation, with amendments to increase the allocation for the Historic Valley Junction Foundation from \$125,000 to \$150,000 and decrease the allocation for the Sister Cities Commission from \$68,000 to \$32,000.

Vote 18-135: Hardman, Trevillyan ... 2 yes
Mickelson, Sandager, Trimble ... 3 no
Motion failed.

Council member Mickelson noted his vote had nothing to do with what was proposed for the Historic Valley Junction Foundation. He voted no because he is uncomfortable with the City's layout for determining hotel/motel tax allocations.

It was moved by Trimble, second by Sandager to adopt Motion - Approval of Subcommittee Recommendation, with an amendment to decrease the allocation for the Sister Cities Commission from \$68,000 to \$32,000.

Vote 18-135: Sandager, Trimble ... 2 yes
Hardman, Mickelson, Trevillyan ... 3 no
Motion failed.

The Council members held discussion on the layout of the hotel/motel tax program.

Council member Mickelson expressed concerns that many worthy organizations in West Des Moines are not applying because they are unaware of the program, and he would like the program to be evaluated comprehensively.

It was moved by Sandager, second by Trimble to adopt Motion - Approval of Subcommittee Recommendation, with amendments to decrease the allocation for the Sister Cities Commission from \$68,000 to \$32,000 and to exclude the Historic Valley Junction Foundation from the list with the intention of voting on it under a separate motion.

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Vote 18-134: Hardman, Sandager, Trevillyan, Trimble ... 4 yes
Mickelson ... 1 no

Motion carried.

It was moved by Trimble, second by Sandager to adopt Motion - Approval of Subcommittee Recommendation on the \$125,000 allocation for the Historic Valley Junction Foundation.

Vote 18-135: Mickelson, Sandager, Trimble ... 3 yes
Hardman, Trevillyan ... 2 no

Motion carried.

Mayor Gaer directed staff to review the hotel/motel tax process to address the Council concerns before the process starts again next year.

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

On Item 9(a) Legislative Updates

Julie Smith and Tim Coonan, Davis Brown Law Firm, provided an update on pending legislation, such as SF 2081 which would eliminate the state backfill for cities. They also expressed appreciation for the opportunity to represent the City as its lobbyist.

Council member Sandager, stated as a member of the Legislative Subcommittee, he would be willing to come speak in front of the legislature on any issue that could benefit from it.

Council member Trevillyan, stated as the other member of the Legislative Subcommittee, he would be willing to come speak in front of the legislature as well.

Mayor Gaer stated he is receiving requests for status updates on roadway construction projects, and he inquired if that information could be made available on the City website.

Council member Trimble noted there is already a "construction updates" page on the City website that provides that information.

The meeting was adjourned at 8:49 p.m.

Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

March 5, 2018

ATTEST:

Steven K. Gaer, Mayor