

July 23, 2018

West Des Moines City Council Proceedings  
Monday, July 23, 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, July 23, 2018 at 5:30 PM. Council members present were: R. Hardman, J. Sandager, and R. Trimble.

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

Vote 18-457: Hardman, Sandager, Trimble...3 yes  
Motion carried.

On Item 2. Public Forum

Jim Gathercole, 332 2<sup>nd</sup> Street, expressed appreciation to the City for its commitment to flood management and investment in stormwater improvements over the years.

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

Council member Trimble reported the Finance and Administration Subcommittee met, where discussion was held on a REAP grant application for the proposed Raccoon River Park boathouse project, an amendment to the eligible area for the Property Tax Rebate program, and establishing a Westcom enterprise fund independent from the City's general fund. He also reported he attended a Parks and Recreation Department ice cream social at Fairmeadows Park.

Council member Hardman reported she attended a neighborhood meeting with the Parks and Recreation Department regarding the proposed Grand Avenue Trail location. She also reported she and Mayor Gaer attended a meeting with the Village Co-operative, where an update was given on the City. She also attended another meeting of the West Des Moines School District's community equity, diversity and multicultural conversation series.

Council member Mickelson began participating via telephone at 5:39 p.m.

On Item 4. Consent Agenda.

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

- a. Approval of Minutes of July 9, 2018 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
  1. 50th Street Sports, LLC d/b/a Grumpy Goat Tavern, 1300 50th Street, Suite 206 - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal

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2. Smash Park Des Moines, LLC d/b/a Smash Park, 6625 Coachlight Drive - Class LC Liquor License with Sunday Sales and Outdoor Service - New
  3. Taste of the Junction, Inc. d/b/a Taste of the Junction - Five-Day Class B Beer Permit with Outdoor Service for Street Party Event in the 400 Block of Railroad Place, September 1, 2018
  4. Moreno's Corporation d/b/a Tequila Limon y Sal Mexican Restaurant, 5014 EP True Parkway - Class LC Liquor License with Sunday Sales - Renewal
  5. Tea Time Two, LLC, d/b/a Wines of Iowa, 234 5th Street - Class B Native Wine Permit with Sunday Sales - Renewal
- d. Approval of Purchase of Additional Snow Plow Truck Unit
- e. Approval of Reimbursement - Various Capital Project Funds
- f. Order Construction:
1. Public Services Fueling Facility Modifications
  2. Veterans Parkway - SE 50th Street to SW 60th Street
- g. Approval of Professional Services Agreements:
1. 2018 Channel Repair Program
  2. 2018 Stormwater Intake Repair Program
  3. 2018 Sewer Rehabilitation Program
  4. 2018 Sewer Cleaning and Televising Program
  5. 2019 HMA Resurfacing Program
  6. 2019 PCC Patching and Medians Program
  7. 27th Street and Vine Street Culvert
  8. Intersection Improvements - Jordan Creek Parkway and Ashworth Road
- h. Establish Public Hearing Regarding the Final Design, Site Selection and Consideration of Acquiring Agricultural Property - Ashworth Road Reconstruction - I-80 Bridge to 98th Street
- i. Approval and Acceptance of Storm Water Facility Maintenance Covenant and Permanent Easement Agreement - Greenway Crossing Shared Access Road
- j. Establish Public Hearings:
1. Amendment #3 to Alluvion Urban Renewal Area
  2. Amendment #2 to Osmium Urban Renewal Area
- k. Approval of Amendment to Property Tax Rebate Program

Vote 18-458: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

On Item 5(a) Greenway Crossing, 9065 Bishop Drive - Amend the Planned Unit Development (PUD) for PUD Parcel G to Change the Zoning from Office to High Density Residential, initiated by Hubbell Realty Company

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

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Vote 18-459: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 18-460: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

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

Vote 18-461: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

On Item 5(b) Electric Energy - Franchise Agreement Expiring June 30, 2038, initiated by MidAmerican Energy Company

Council member Trimble inquired why the notification distance is being decreased from 500 feet from a work site to 400 feet.

City Attorney Dick Scieszinski responded MidAmerican Energy Company suggested that change, as they felt 400 feet is more appropriate. He noted the previous franchise agreement had no notification requirement at all.

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

Vote 18-462: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

Mayor Gaer noted, that while this ordinance includes language regarding franchise fees, the City is not actually imposing a franchise fee.

City Manager Tom Hadden stated that is correct, as this ordinance merely allows for the option to impose a franchise fee if the City should ever decide to.

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

Vote 18-463: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

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

Vote 18-464: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

On Item 5(c) Natural Gas - Franchise Agreement Expiring June 30, 2038, initiated by MidAmerican Energy Company

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

Vote 18-465: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 18-466: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

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

Vote 18-467: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

On Item 5(d) Amendment to City Code - Title 7 (Public Ways and Property), Chapter 12 (Library Regulations), Section 2 (Rules and Regulations) - Behavior of Library Patrons, initiated by Library Board of Trustees

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

Council member Trimble inquired why the City Council is adopting a policy that was already approved by the Library Board of Trustees under their jurisdiction.

City Attorney Dick Scieszinski responded the Library Board of Trustees does have jurisdiction, but the reason for the Council to adopt this ordinance is to incorporate the policy into the City Code so that it can be enforced.

Vote 18-468: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

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The City Clerk read the preamble to the ordinance.

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

Vote 18-469: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

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

Vote 18-470: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider Somerfield, southeast corner of Mills Civic Parkway and South 50th Street - Amend the Planned Unit Development (PUD) to Modify Buffer Park Regulations, initiated by Kyle and Maureen Barton. He asked for the date the notice was published and the City Clerk indicated the notice was published on June 29, 2018 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 3-2, with two members absent, the Plan and Zoning Commission recommended City Council approval of the PUD amendment, and one correspondence was received which was included with the council communication.

Mayor Gaer requested staff provide additional information on this item.

Lynne Twedt, Development Services Director, reported this property is part of a PUD that prohibits fences from being constructed within the 60-foot buffer along South 50<sup>th</sup> Street, therefore the Bartons' request requires an amendment to the PUD, as they would like to construct a fence as close to the property line as possible. She noted buffers are typically 30 feet, however there are provisions for corner lots with no buffer to construct a 6-foot fence as close as 15 feet. Staff recommended a compromise of a 15-foot buffer in this case, while the Plan and Zoning Commission recommended a 4-foot buffer.

Mayor Gaer asked if there were any public comments.

Kyle Barton, 4931 Fieldstone Drive, requested the City Council approve a 4-foot buffer, so they can construct a privacy fence without removing a significant number of trees and landscaping. He noted a 15-foot buffer would require the removal of 10 trees. He stated they desire a privacy fence, because the landscaping only provides privacy for half the year, and they have concerns about safety as they are the closest house from the Mills Civic Parkway exit off Interstate-35. He also noted a fence would help contain trash that blows into their yard. He stated he obtained signatures from all the homeowners on Fieldstone Drive in support of the proposed fence.

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Jim Simpson, 4930 Fieldstone Drive, spoke in support of the Bartons' request to construct a fence as close to the property line as possible. He cited concerns about safety and garbage.

Michael O'Meara, 4621 Fieldstone Drive, spoke in support of the Bartons' request to construct a fence as close to the property line as possible. He stated the Bartons have made significant improvements to their property, and he is confident the proposed fence will be professionally and thoughtfully done as well, so it could enhance the view along South 50<sup>th</sup> Street.

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

Council member Mickelson stated the Development and Planning Subcommittee supported the 15-foot buffer, but not the 4-foot buffer. He noted some communities have long walls of fences along the sidewalk of major roadways, which does not present an appealing view from the road. The subcommittee was concerned that amending the PUD to allow a 4-foot buffer in this case could lead to multiple properties along South 50<sup>th</sup> Street with fences sitting four feet from the sidewalk, creating a similar effect.

Council member Trimble inquired, if the Bartons don't believe a 15-foot buffer will work without impacting the trees and landscaping, is there a different distance that would work.

Mr. Barton responded anything short of the 4-foot buffer will require the removal of trees.

Council member Hardman stated the Development and Planning Subcommittee thought the 15-foot buffer was a good compromise, as they did not want to set a precedent for long walls of fences to be constructed four feet from the sidewalk.

Mr. Barton noted there are already examples around the City of fences along major roadways that are six feet from the sidewalk.

Ms. Twedt stated some of those fences received a variance from the Board of Adjustment, some were installed without contacting the City at all, and some pre-date the City Code's regulations on fences. She suggested the Council approve the first reading with the staff recommendation of a 15-foot buffer, and additional information can be provided before the next meeting.

Mayor Gaer requested that staff prepare a report of the fences referenced by Mr. Barton, and list which ones received a variance, which ones were installed without contacting the City, and which ones pre-date the City Code's regulations on fences.

It was moved by Trimble, second by Hardman to consider the first reading of the ordinance, with a 15-foot buffer as recommended by staff

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Vote 18-471: Hardman, Mickelson, Sandager, Trimble...4 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, with a 15-foot buffer as recommended by staff

Vote 18-472: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

On Item 6(b) Agreement for Private Development, initiated by Ballenger Real Estate, LLC.

It was moved by Trimble, second by Hardman to adopt Motion - Continue Public Hearing to August 6, 2018.

Vote 18-473: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

On Item 6(c) Agreement for Private Development, initiated by LTR Pointe Properties, LLC (Continued from June 11, 2018, June 25, 2018, and July 9, 2018).

It was moved by Trimble, second by Mickelson to adopt Motion - Continue Public Hearing to August 6, 2018.

Vote 18-474: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

On Item 6(d) Mayor Gaer indicated this was the time and place for a public hearing to consider South Area Lift Station Improvements, 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 July 13, 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.

Bill Scott, President of the West Des Moines Soccer Club, inquired how much of the Hidden Valley soccer fields property will be used for this project.

Jason Schlickbernd, Principal Engineer, responded a 10-foot permanent easement and a 20-foot temporary easement will be needed in the northwest corner of the property. He noted the contractor will re-sod the impacted area.

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

It was moved by Trimble, second by Hardman to adopt Resolution - Approval of Acquisition of Agricultural Property.

Vote 18-475: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

On Item 6(e) Mayor Gaer indicated this was the time and place for a public hearing to consider South Area Lift Station Improvements, 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 July 13, 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 Hardman to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Shank Constructors, Inc.

Council member Trimble noted the low bid was significantly higher than the engineer's estimate, and he inquired if this project is time-sensitive or if it could be re-bid at a later date.

Jason Schlickbernd, Principal Engineer, responded the project is not time-sensitive, so it could be re-bid at a later date. He stated feedback from prospective bidders indicated the nature of the project with multiple trades involved led to higher bids, therefore staff would not expect re-bidding the project to result in lower bids.

Vote 18-476: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

On Item 7(a) Aventura at Greenway Crossing, 9065 Bishop Drive - Approval of Site Plan to Construct a 62-Unit Senior Apartment Building, initiated by Hubbell Realty Company

It was moved by Sandager, second by Hardman 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 18-477: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.



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On Item 7(b) Wolfe Clinic Surgery Center, 6100 Westown Parkway - Approval of a Major Modification to Allow Full Construction of a Surgery Center Building with Site Modifications, initiated by Wolfe Eye Clinic

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

Vote 18-478: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

On Item 7(c) Amendment to City Code - Title 4 (Health and Safety Regulations), Chapter 5C (Solid Waste Control) - Modifications to Fees and Charges, initiated by the City of West Des Moines

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

Vote 18-479: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 18-480: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

On Item 7(d) Amendment to City Code - Title 4 (Health and Safety Regulations), Chapter 6 (Municipal Recycling), Section 6 (License Application, Term, Revocation) - Remove the Licensing Requirements for Haulers of Municipal Recycling, initiated by the City of West Des Moines

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

Vote 18-481: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

Mayor Gaer stated a letter was received from a resident with concerns about solid waste collection, and he requested that staff contact the resident to address those concerns.

Council member Trimble expressed concerns about solid waste haulers not getting out of their trucks to take care of containers that blow over from the wind, which results in spilled garbage blowing around neighborhoods.

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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 18-482: Hardman, Mickelson, Sandager, Trimble...4 yes  
Motion carried.

On Item 7(e) Amendment to City Code - Title 6 (Motor Vehicles and Traffic), Chapter 9 (Traffic Schedules), Section 3 (Special Stops Required) - South 34th Street and Valley View Drive, initiated by the City of West Des Moines

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

Vote 18-483: Hardman, Mickelson, Sandager, Trimble...4 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 18-484: Hardman, Mickelson, Sandager, Trimble...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 6:40 p.m.

Respectfully submitted,

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Ryan T. Jacobson, CMC  
City Clerk

ATTEST:

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Steven K. Gaer, Mayor