

September 17, 2018

West Des Moines City Council Proceedings
Monday, September 17, 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, September 17, 2018 at 5:30 PM. Council members present were: R. Hardman, J. Mickelson, J. Sandager, K. Trevillyan, and R. Trimble.

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

Vote 18-540: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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

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

Dawn Davis, ETC Institute, reported on the results of the 2018 citizen survey, stating the residents have a very positive perception of the city overall. She also noted the City of West Des Moines rated above the national average in 50 of the 51 comparative factors.

Council member Sandager reported he attended the Iowa Cricket Federation's final match, where the organization presented a \$1,000 check to the City of West Des Moines. He also reported he attended recent meetings of the Bravo Greater Des Moines finance committee and grant committee, and he stated he will attend tomorrow's meeting of the Bravo Greater Des Moines Board of Directors as well.

Council member Trevillyan reported he will hold a Ward 1 quarterly town hall meeting on Saturday, September 22nd.

Council member Trimble reported the Finance and Administration Subcommittee met and discussed funding options for the Rapid Rehousing program.

Council member Mickelson reported he attended an economic development bus tour with Hubbell Homes, and he commented on how development in the area surrounding the South 88th Street and Mills Civic Parkway intersection has progressed significantly in recent years.

Council member Hardman reported she spoke on implicit bias during a breakout session at the Iowa League of Cities conference. She also expressed appreciation to the Police Department for hosting the City staff quarterly luncheon.

On Item 4. Consent Agenda.

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Council members pulled Items 4(c)10, 4(f), and 4(k) for discussion. It was moved by Mickelson, second by Trimble to approve the consent agenda as amended.

- a. Approval of Minutes of September 4, 2018 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 - 1. WDM Sports, LLC d/b/a 1908 Draught House, 196 South 50th Street - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
 - 2. Thawee Wathana, LLC d/b/a BananaLeaf Asian Bistro, 5515 Mills Civic Parkway, Suite #140 - Class LC Liquor License with Sunday Sales - Renewal
 - 3. Two Tees, LLC d/b/a Blu Toro, 5585 Mills Civic Parkway, Suite 110 - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
 - 4. Casey's Marketing Company d/b/a Casey's General Store #2297, 108 8th Street - Class BC Permit with Sunday Sales and Carryout Wine Privileges - Renewal
 - 5. Cinemark USA, Inc. d/b/a Century 20 Jordan Creek and XD, 101 Jordan Creek Parkway, Unit 2000 - Class BW Permit with Sunday Sales - New
 - 6. CEC Entertainment, Inc. d/b/a Chuck E. Cheese's #958, 1431 22nd Street - Class BB Permit with Sunday Sales - Renewal
 - 7. Des Moines Golf and Country Club d/b/a Des Moines Golf and Country Club, 1600 Jordan Creek Parkway - Class LC Liquor License with Carryout Wine, Sunday Sales, and Outdoor Service Privileges - Renewal
 - 8. TenX Adventures 2, LLC d/b/a The Hall, 111 South 11th Street - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
 - 9. Envision Homes, LLC d/b/a Heart of Iowa Marketplace, 211 5th Street - Class B Native Wine Permit with Sunday Sales - Renewal
 - 11. 52 Gracedieu DBA Memory Lane Antiques, LLC d/b/a Memory Lane Antiques Collectibles & Gifts, 208 5th Street - Class B Native Wine Permit with Sunday Sales - Renewal
 - 12. Scotty's Pub 1, LLC d/b/a Scotty's Pub & Grill, 3781 EP True Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 - 13. Riley Drive Entertainment I, Inc. d/b/a Tonic Bar, 5535 Mills Civic Parkway - Class LC Liquor License with Carryout Wine, Sunday Sales, Outdoor Service, and Catering Privileges - Renewal
 - 14. InterMountain Management, LLC d/b/a TownePlace Suites, 125 South 68th Street - Class LB Liquor License with Sunday Sales - Renewal
 - 15. Nicole Schneider d/b/a The Whimsical Wine Trailer, 203 5th Street - Five-Day Class C Native Wine Permit for Event at Olson-Larsen Galleries - October 4, 2018
 - 16. Your Private Bartender, LLC d/b/a Your Private Bartender, 1701 25th Street (Events Center West) - Transfer Location Temporarily to 8000 Raccoon River Drive (Wright Outdoor Solutions) - September 20, 2018
- d. Approval to Sell Surplus City Equipment
- e. Approval of Contract - Purchase of HRIS Software

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- g. Approval of Contract - City Hall Renovations - Office Furniture Leasing and Relocation
- h. Approval of Policies:
 - 1. Amended Purchasing Policy
 - 2. Fraud Reporting Policy
- i. Approval of FY 2017-18 Iowa Department of Transportation City Street Financial Report
- j. Order Construction:
 - 1. City Hall Renovations
 - 2. Veterans Parkway - SW 60th Street to SW Wild Rose Lane
 - 3. 2018 Sewer Cleaning and Televising Program
- k. Approval of Professional Services Agreement - On-Call ADA Sidewalk Ramp Program
- l. Accept Public Improvements - Westfield Office Building Sanitary Sewer
- m. Accept Public Improvements and Sanitary Sewer Easement - Bridgewood Square Sanitary Sewer
- n. Approval of Grant Application - Iowa Clean Air Attainment Program (ICAAP) - Traffic Adaptive Signal Controls at Nine Intersections
- o. Establish Public Hearing - Grand Ridge Urban Renewal Area
- p. Approval of Temporary Access License with Microsoft Corporation - Veterans Parkway Improvements, SE 50th Street to SW 60th Street

Vote 18-541: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 4(c)10 Approval of Liquor License - Butterface, LLC d/b/a The Keg Stand, 3530 Westown Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal

Council member Mickelson inquired if the City is still a party to a lawsuit regarding the I-80 accident that occurred on March 26, 2016, in which the wrong-way driver had been a patron at The Keg Stand prior to the accident.

City Attorney Dick Scieszinski responded yes, the City is still being sued by the family of one of the deceased victims from that accident.

Council member Mickelson stated he does not want to attribute blame for that accident, but he does not feel comfortable approving the renewal of this liquor license while the City is still a named party in that lawsuit.

Mayor Gaer inquired about the lawsuit's allegations against the City.

City Attorney Scieszinski responded the lawsuit alleges the City opened the Grand Prairie Parkway interchange before all pavement markings and lighting was completed.

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Council member Trevillyan inquired if the Keg Stand's liquor license has anything to do with the lawsuit against the City.

City Attorney Scieszinski responded it does not. He stated there was a separate lawsuit against The Keg Stand, which has been settled by the dram shop insurance carrier.

Council member Mickelson stated his concern is that a sober person would have likely understood the interchange design and not driven the wrong way.

Mayor Gaer requested clarification that staff is not recommending denial of this liquor license renewal.

City Attorney Scieszinski responded that is correct, as the applicant meets all the State Code requirements for a liquor license, so there is no reason to deny it.

It was moved by Trevillyan, second by Hardman to approve Item 4(c)10 Approval of Liquor License - Butterface, LLC d/b/a The Keg Stand, 3530 Westown Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal.

Vote 18-542: Hardman, Trevillyan ... 2 yes
Mickelson, Sandager, Trimble ... 3 no

Motion failed.

On Item 4(f) Approval of Memorandum of Understanding with City of Clive - Temporary Fire Prevention Services

Council member Mickelson expressed concerns that the services the West Des Moines Fire Department would provide under this agreement might not be the best use of our staff's time.

Council member Trimble stated he initially shared similar concerns, but after speaking with Fire Department staff, he feels confident that they will have no problem completing their work and providing some assistance to Clive.

Mike Whitsell, Fire Marshal, reported the Clive Fire Marshal recently retired, so their Fire Chief has requested the West Des Moines Fire Department provide plan review assistance until that position is filled. He noted Clive adopted the same Fire Code as West Des Moines several years ago. The City of Clive is requesting this assistance because they have several large development projects coming, and they do not want them to be held up by long delays in the plan review process. He stated staff feels confident they can provide the assistance being requested because it is not a substantial amount of work. He noted it was made clear with the City of Clive that West Des Moines projects will remain staff's top priority. He also stated staff sees this as a positive opportunity to ensure consistency, because West Des Moines firefighters respond to properties in Clive as well.

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Mayor Gaer inquired if the Clive Fire Department now trains with the City of Urbandale at the Urbandale training tower or still utilized the West Des Moines training tower at Station #17 on Railroad Avenue.

Mr. Whitsell responded they no longer train at the West Des Moines Fire Department training facility, as they now train with the Urbandale Fire Department at their training facility in Urbandale.

Mayor Gaer inquired if the City of West Des Moines was included in the discussions between Clive and Windsor Heights about shared fire services.

Mr. Whitsell responded West Des Moines was included in that discussion late in that process.

It was moved by Trimble, second by Hardman to approve Item 4(f) Approval of Memorandum of Understanding with City of Clive - Temporary Fire Prevention Services.

Vote 18-543: Hardman, Trevillyan, Trimble ... 3 yes
Mickelson, Sandager ... 2 no

Motion carried.

On Item 4(k) Approval of Professional Services Agreement - On-Call ADA Sidewalk Ramp Program

Council member Trimble requested that staff ensure contractors are doing a good job with restoration after sidewalk projects, as well as other paving projects, are constructed.

It was moved by Trimble, second by Trevillyan to approve Item 4(k) Approval of Professional Services Agreement - On-Call ADA Sidewalk Ramp Program.

Vote 18-544: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(a) Amendment to City Code - Title 9 (Zoning), Chapter 15 (Off-Street Parking and Loading) - Modify Regulations for Individual Residential Driveways, initiated by the City of West Des Moines

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

Vote 18-545: Hardman, Mickelson, Trimble ...3 yes
Sandager, Trevillyan ... 2 no

Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 18-546: Hardman, Mickelson, Trimble ...3 yes
Sandager, Trevillyan ... 2 no

Motion carried.

On Item 5(b) Grand Avenue Trail - Jordan Creek to Fuller Road, initiated by the City of West Des Moines (Continued from June 11, 2018, June 25, 2018, August 6, 2018, and August 20, 2018)

It was moved by Trimble, second by Hardman to adopt Resolution - Approval of Alignment of the Grand Avenue Trail - Jordan Creek to Fuller Road, specifically Option #4: a ten-foot wide trail on the west side of Grand Avenue, from Fuller Road to the existing five-foot sidewalk on the roadway bridge.

Council member Trimble expressed support for Option #4 because it would not require eminent domain of any resident's property, and at ten-feet wide, it would be considered a trail and could be paid for and maintained by the City. He noted it would also allow for a potential completion of the trail to connect to the existing trail underpass under Grand Avenue if the property owner at 2285 Grand Avenue should ever become a willing seller.

Council member Trevillyan expressed opposition to Option #4, because it would require the removal of 400 feet of an existing six-foot wide sidewalk that is in good condition. He expressed support for Option #5: a six-foot wide sidewalk on the west side of Grand Avenue, as it could utilize the existing segment of a six-foot wide sidewalk.

Ralph Haskins, 729 5th Street, expressed support for Option #4, because the ten-foot wide trail would be safer for bicyclists and walkers that would share the trail. He also stated the west side of Grand Avenue would be the preferable location for a trail, because the east side has a much higher number of access drives that enter onto Grand Avenue. He requested that the approach to the five-foot sidewalk near the bridge be clearly signed to give adequate notice.

Mike Goulden, 608 Grand Oaks Drive, expressed support for Option #4 and the ten-foot wide trail, because it would be difficult and unsafe for the residents to maintain a private sidewalk along the west side of Grand Avenue. He stated one of his neighbors requested a quote for snow removal should a private sidewalk be constructed there, but the company declined to offer a quote because they had concerns about employee safety.

Mark McCoy, 2285 Grand Avenue, expressed support for Option #5, stating he does not believe the pedestrian traffic along the west side of Grand Avenue is significant enough to warrant a ten-foot wide trail, as there is no visible worn footpath in the grass. He believes a six-foot wide sidewalk would be sufficient for the low levels of traffic he would expect, and he noted it would also cost less than the ten-foot wide trail.

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Pat Rolfes, 600 Grand Oaks Drive, expressed support for Option #4 and the ten-foot wide trail, as he believes there is a significant amount of bicycle and pedestrian traffic along this stretch of Grand Avenue, and the ten foot width would provide the necessary amount of space for passing.

Mr. Haskins also stated the proposed trail would provide transportation connections to other areas to the west, such as the Des Moines Area Community College campus.

Jonas Cutler, 204 Holiday Circle, stated trails should be constructed where there is actually demand for a trail, and not as a means to address issues with the City's sidewalk policy. He requested that the City review the sidewalk policy as a separate issue.

Mayor Gaer inquired about the recommendation of the Parks and Recreation department.

Sally Ortgies, Parks and Recreation Director, stated if the Council chooses to put in a trail, the Parks and Recreation Department feels it needs to be ten feet in width to meet standards for trail design and to allow for passing.

Council member Hardman expressed support for Option #4 because it would not require eminent domain of any resident's property, and the ten foot width would ensure safety of all trail users.

Council member Trimble stated another reason he supports Option #4 is because it will not add any additional "double frontage" lots with sidewalks in front and back, as he believes they are a problem in the city.

Mayor Gaer requested that staff look into the "double frontage" lot issue prior to the next sidewalk program.

Vote 18-547: Hardman, Mickelson, Sandager, Trimble ...4 yes
Trevillyan ... 1 no

Motion carried.

On Item 6(a) Agreement for Private Development, initiated by Fore Right, L.C. and Ferguson Property Management Services, L.C.

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

Vote 18-548: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(a) Campiello Point, 6460 Galleria Drive - Subdivide Property into 16 Postage Stamp Lots and One Outlot, initiated by NJREC, Inc.

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

Vote 18-549: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(b) Cedar Ridge Plat 2, northwest corner of Mills Civic Parkway and South 88th Street - Subdivide Property into 387 Single Family Lots, Two Multi-Family Lots, One Outlot for Future Development, and One Outlot for Detention, initiated by 117 Land Company, LLC

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

Council member Trimble noted a number of executive lots have already been platted to the west of this development, and he inquired how this development's streets will be configured to provide street access to those executive lots.

Lynne Twedt, Development Services Director, responded this preliminary plat includes two outlots for future development, which are adjacent to the existing executive lots. The applicant is aware they will be required to provide street access to the executive lots and plans to construct a private cul-de-sac through the outlot to the north that will serve that purpose.

Vote 18-550: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(c) 542 5th Street - Approval of a Site Plan to Construct a 4,500 sq. ft. Multi-Tenant Commercial Building, initiated by R & H Properties, LLC

It was moved by Trimble, second by Trevillyan 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 18-551: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(d) Alluvion DM07, 550 SE White Crane Road - Approval of a Major Modification for Phase 4 Data Center Construction, initiated by Microsoft Corp.

It was moved by Trimble, second by Hardman 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.

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Vote 18-552: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(e) Xcaret Club and Lounge, LLC d/b/a Xcaret Club and Lounge, 2700 University Avenue, Suite 200 - Class LC Liquor License - New

It was moved by Trimble, second by Mickelson to adopt Motion - Denial of Liquor License Application.

Jorge Sanchez, 1907 Blossom Lane, Marshalltown, stated he is seeking a liquor license in West Des Moines, because his business in Marshalltown was damaged by a tornado in July. He stated the reason his criminal violations were not disclosed on the application is because a representative from Iowa ABD was walking him through the application and he misunderstood what type of violations needed to be listed. He also stated his three after hours violations all occurred shortly after 2:00 a.m. as the police would arrive for a walk-through of his establishment immediately after 2:00 a.m.

City Attorney Dick Scieszinski stated the reason for staff recommending denial of this application is because of the habitual nature of the three after hours violations, how recent the latest violation occurred in June 2018, and the applicant's failure to disclose the violations in the application. He noted if the City Council denies this application, the applicant would have an opportunity to request an appeal through a hearing process with Iowa ABD.

Vote 18-553: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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

On Item 9 - Other Matters: none

The meeting was adjourned at 7:00 p.m.

Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Steven K. Gaer, Mayor