

November 26, 2018

West Des Moines City Council Proceedings
Monday, November 26, 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, November 26, 2018 at 5:30 PM. Council members present were: R. Hardman, J. Mickelson, K. Trevillyan, and R. Trimble.

Mayor Gaer introduced Boy Scout Troop 242.

The members of Boy Scout Troop 242 led the reciting of the Pledge of Allegiance.

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

Vote 18-619: Hardman, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

On Item 2. Public Forum

Mark Rocha, 495 South 51st Street, expressed concerns about traffic accidents along South 50th Street.

Mayor Gaer requested that staff include this matter on the agenda for the next meeting of the Public Safety Subcommittee.

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

Alex Broderick, Greater Dallas County Development Alliance, reported on the organization's activities over the past year and thanked the City of West Des Moines for its support.

Council member Trevillyan reported he will hold a Ward 1 quarterly town hall meeting on Saturday, December 8th.

Council member Trimble reported the Finance and Administration Subcommittee met and discussed the timelines of RFP's for services, such as insurance services, and they recommended that staff continue with a five-year schedule for such RFP's. The subcommittee also discussed the 2019 City Council meeting schedule, future funding for the redevelopment funding programs in Historic West Des Moines, a potential coupling between the City's property tax rebate program and the Opportunity Zone program in the Historic Valley Junction Business District, and adjusting the timing of the allocation of funds for the Upper Story Housing Program.

November 26, 2018

Council member Mickelson reported the Development and Planning Subcommittee met and discussed a proposed new senior facility and how to manage growth in the Historic Valley Junction Business District. He also congratulated the Dowling Catholic High School football team and Coach Tom Wilson on their sixth consecutive state championship.

Council member Hardman reported she attended a meeting of the Library Board of Trustees, where discussion was held on ways to utilize state-of-the-art resources. She reported she also attended a session of the “Community Conversation” series. She also read a personal statement regarding the October 29, 2018 arrest of Mr. Keilon Hill by the West Des Moines Police Department; expressing opposition to any form of racial profiling. First and foremost, the Officer was responding to a complaint lodged by a West Des Moines resident. After watching the recording of the incident multiple times, she believes the Officer Ray approached Mr. Hill in a non-threatening manner and witnessed Mr. Hill continuously refusing to explain what he was doing, placed hands in his pocket, and papers underneath his jacket. After about a dozen times, he did not respond to the Officer. The Officer did as much as he could do to avoid arresting Mr. Hill. She in fact suggested that the West Des Moines Police release the tape in interest of full transparency. She stated this incident was an unfortunate and regrettable situation, but she sees it as an opportunity to dialogue, gain a better understanding of one another, and eliminate barriers in our community.

Council member Sandager arrived at 5:34 p.m. The attendance was re-taken. Council members present were: R. Hardman, J. Mickelson, J. Sandager, K. Trevillyan, and R. Trimble.

On Item 4. Consent Agenda.

Council members pulled Item 4(e) for discussion. It was moved by Trimble, second by Mickelson to approve the consent agenda as amended.

- a. Approval of Minutes of November 12, 2018 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 - 1. Aldi, Inc. d/b/a Aldi, Inc. #40, 6050 Mills Civic Parkway - Class BC Beer Permit with Carryout Wine and Sunday Sales - Renewal
 - 2. Thawee Wathana, LLC d/b/a BananaLeaf Asian Bistro, 5515 Mills Civic Parkway, Suite #140 - Class BW Permit with Sunday Sales - New
 - 3. FoodFirst Global Restaurants, Inc. d/b/a Bravo Cucina Italiana, 120 South Jordan Creek Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - New
 - 4. Three Star Investment, Inc. d/b/a Flashmart #101, 3501 EP True Parkway - Class LE Liquor License with Carryout Beer, Carryout Wine, and Sunday Sales - New
 - 5. West Des Moines Lodging Investors, LLC, d/b/a Hampton Inn, 7060 Lake Drive - Class BW Permit with Sunday Sales and Living Quarters - Renewal

November 26, 2018

6. Hy-Vee, Inc. d/b/a Hy-Vee Meeting Room, 1725 Jordan Creek Parkway - Transfer Location Temporarily to 1236 Jordan Creek Parkway (SpringHill Suites) - December 5-6, 2018
7. 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
8. Occasions Catering, LLC d/b/a Occasions Catering, 7929 Ashworth Road - Class LC Liquor License with Sunday Sales, Outdoor Service, and Catering Privileges - Renewal
9. Taste of New York, Inc. d/b/a Taste of New York, 165 South Jordan Creek Parkway, Suite 160 - Class BW Permit with Sunday Sales - Renewal
- d. Approval of Order for Violation of Alcohol Laws
- f. Approval of 2017-18 FY Tax Increment Financing Report
- g. Approval of 2019-20 FY Tax Increment Financing Indebtedness and Certification Report
- h. Approval of Updated Strategic Action Plan Supporting WDM 2036 Strategic Plan
- i. Approval to Advertise and Receive Bids and Set Public Hearing - Sale of City-Owned Property Previously Acquired for the Construction of Project Osmium Public Infrastructure (Veterans Parkway Improvements Project)
- j. Approval of Amendment #1 to Professional Services Agreement - 62nd and Railroad Gate Structure
- k. Authorize Application for Surface Transportation Block Grant (STBG) Program Funding - Des Moines Area Metropolitan Planning Organization
- l. Award Contract - Human Services Child Care Center and Medical Clinic
- m. Accept Work:
 1. 2017 Durable Pavement Markings Program
 2. 2017 Guardrails Program
 3. Raccoon River Drive RCB Culvert near South Jordan Creek Parkway
 4. SE Waco Place/98th Street and University Avenue Traffic Signal
- n. Accept Public Improvements - Majestic Oaks
- o. Approval of Professional Services Agreements:
 1. Miscellaneous Land Surveying Services
 2. Right-of-Way Acquisition Services
- p. Establish Public Hearing Regarding the Final Design, Site Selection and Consideration of Acquiring Agricultural Property:
 1. Booneville Road Reconstruction, South 88th Street to west of South 100th Street
 2. South 88th Street and Mills Civic Parkway Reconstruction
- q. Approval and Acceptance of Purchase Agreements and Property Interests - Southwest Connector Improvements, Phase 3 (n/k/a Veterans Parkway)

Vote 18-620: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 4(e) Approval of Reappointment - West Des Moines Water Works Board of Trustees

November 26, 2018

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

It was moved by Trimble, second by Mickelson to approve Item 4(e) Approval of Reappointment - West Des Moines Water Works Board of Trustees.

Vote 18-621: Hardman, Mickelson, Sandager, Trimble ... 4 yes
Trevillyan... 1 abstain due to potential conflict of interest

Motion carried.

On Item 5(a) Bridgewood, northwest corner of Jordan Creek Parkway and Bridgewood Boulevard - Amend Planned Unit Development (PUD) to Allow Monument Signs on Parcel M to Include Any Business within Bridgewood Square Regardless of Property Lines, initiated by Bridgewood Commercial, LLC

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

Vote 18-622: 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 18-623: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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

Vote 18-624: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(b) Redevelopment Funding Programs in Historic West Des Moines - Consideration of Renewal, initiated by the City of West Des Moines

It was moved by Sandager, second by Trevillyan to continue the Redevelopment Funding Programs in Historic West Des Moines.

Council member Mickelson inquired if staff is confident in the future repayment by the entities already participating in these programs.

November 26, 2018

Clyde Evans, Community and Economic Development Director, responded the current participants in the programs are all current on their payments.

Council member Trimble stated he is supportive of these programs, but he would prefer to wait before allocating additional funds to allow for the projects already funded to be evaluated after some time has passed.

Council member Mickelson expressed support for continuing the programs one additional year, but he does not support committing funding to them every year in perpetuity.

Vote 18-625: Hardman, Mickelson, Sandager, Trevillyan ... 4 yes
Trimble... 1 no

Motion carried.

Mayor Gaer noted staff recommends allocating \$360,000 from the general fund to the programs in FY 2019-2020.

Council member Sandager expressed support for allocating funding to the programs for multiple years to maintain the program's momentum. He also noted some property owners may not have had projects ready during the initial two years of these programs to submit an application, so extending the programs multiple years would allow them more time to plan their projects and then seek funding for those projects. He suggested the City should commit to funding the programs for a period of at least three years, but preferably five years. He also stated the funding allocation should be \$360,000 each year because that would be a meaningful amount, and he noted the City's reserve fund has sufficient funds to cover that amount.

It was moved by Sandager, second by Trevillyan to allocate \$360,000 per year for three years (starting with FY 2019-2020) from the City's reserve fund to the Redevelopment Funding Programs in Historic West Des Moines.

Council member Trimble expressed concerns about committing that amount of money to these programs over the next three years, as there is a high demand for funding basic government services, such as public safety personnel. He also expressed a desire to maintain a strong reserve fund.

Council member Sandager agreed that public safety is a top priority, but he believes the proposed allocation to the Redevelopment Funding Programs should not displace anything for public safety. He stated the allocations to these programs have already generated a good return on the investment, and he wants to continue that.

Mr. Evans noted the properties that have received funding under these programs have all seen a major uptick in their assessed valuations, so the programs have been proven to increase property values.

November 26, 2018

Council member Hardman expressed support for committing funding to these programs, because the programs have already proven to be successful, and she stressed the importance of supporting small businesses in the community.

Council member Trevillyan expressed support for committing funding to these programs, and he requested that staff review how the due diligence committee is functioning to determine if any changes are needed.

Council member Mickelson expressed support for committing \$360,000 for one year, but he is not comfortable committing that amount for additional years beyond that. He suggested that the allocation should be reconsidered each year, in case the Council's priorities have changed.

Vote 18-626: Hardman, Sandager, Trevillyan ... 3 yes
Mickelson, Trimble... 2 no

Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider Willow Creek Villas, west side of Veterans Parkway approx. 2,300 ft. north of the intersection of Veterans Parkway and SE 11th Street - Amend the Comprehensive Plan Land Use Map and Change the Zoning from Medium Density Residential to Single Family Residential, initiated by Jerry's Homes. He asked for the date the notice was published and the City Clerk indicated the notice was published on November 9, 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 absent, the Plan and Zoning Commission recommended City Council approval of the comprehensive plan amendment and rezoning request.

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 Comprehensive Plan Amendment.

Vote 18-627: 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 18-628: 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.

November 26, 2018

Vote 18-629: 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 City Campus Amphitheater, 4200 Mills Civic Parkway (northeast of City Hall) - Approval of a Site Plan to Allow Construction of a Community Amphitheater, initiated by the City of West Des Moines, Parks and Recreation. He asked for the date the notice was published and the City Clerk indicated the notice was published on November 9, 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 absent, the Plan and Zoning Commission recommended City Council approval of the site plan.

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

Mayor Gaer inquired about the timeline of this project.

City Manager Tom Hadden responded construction is expected to begin in spring 2019, and the project should be completed within a year.

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

Vote 18-630: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(c) Ashworth Road I-80 Corridor, generally located along Ashworth Road beginning west of I-80 east to Jordan Creek Parkway - Amend Comprehensive Plan Land Use Map and Amend Zoning Map to Designate and Zone Property to High Density Residential, Medium Density Residential, Single Family Residential, Office, Community Commercial, and Business Park, initiated by the City of West Des Moines

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

Vote 18-631: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(d) Raccoon River West, south of Raccoon River adjacent to the future extension of SW Grand Prairie Parkway - Amend Comprehensive Plan Land Use Map to Designate Medium Density Residential and Open Space Land Use and Establish Single Family Residential (R-1), Residential Medium Density (RM-12) and Agricultural/Open Space Zoning, initiated by Raccoon River Land Company, LLC

November 26, 2018

It was moved by Sandager, second by Hardman to adopt Motion - Continue Public to December 26, 2018.

Vote 18-632: 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 to City Code - Title 9 (Zoning), Chapter 5 (Agricultural/Open Space and Residential Zoning District) and Chapter 10 (Performance Standards) - Eliminate Garage Requirement for Single Family Detached and Multi-Family Condominium Regime Developments, 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 November 9, 2018 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 5-0, with two members absent, 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.

Lynne Twedt, Development Services Director, responded to questions from the Council, stating the City's current ordinance requiring garages for single-family detached homes was intended to reduce clutter outside homes.

Council member Trevillyan noted that a couple homes in the city have had their dilapidated garages torn down, but nothing in the Code requires another garage to be built in its place. He also noted there are several homes in the city with attached garages that have been converted to living spaces. He stated the current ordinance is not achieving what it intended, because many residents still have clutter outside their homes. He also stated there are residential properties in the Valley Junction area that are unbuildable because there isn't adequate space for a house and a garage. He noted that non-profit organizations, such as Habitat for Humanity, that do not build garages are not able to build homes in West Des Moines under the current ordinance.

Council member Trimble expressed a preference to maintain the current ordinance with the option to grant exceptions for certain cases when warranted.

Council member Sandager agreed with Council member Trimble's suggestion.

Council member Mickelson inquired if it would be possible to narrow the scope of the ordinance changes so it could apply only to the properties where it would make the most sense.

November 26, 2018

Council member Trevillyan stated most people want garages, so homebuilders will continue to primarily build homes with garages to meet market demand.

Council member Hardman stated the residents have differing needs and some might not want a garage. She noted this ordinance change could move the needle on affordable housing.

Vote 18-633: Hardman, Mickelson, Trevillyan ... 3 yes
Sandager, Trimble... 2 no

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 18-634: Hardman, Mickelson, Trevillyan ... 3 yes
Sandager, Trimble... 2 no

Motion carried.

On Item 6(f) Amendment to City Code - Title 9 (Zoning) - Provide for the Implementation of High-Density Residential Buildings within the Professional Commerce Park District, initiated by the City of West Des Moines.

It was moved by Trevillyan, second by Mickelson to adopt Motion - Continue Public to December 10, 2018.

Vote 18-635: 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 Not to Exceed \$10,750,000 Taxable General Obligation Urban Renewal Bonds, Series 2018E, 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 November 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 Hardman to adopt Resolution - Set Date for Sale of Taxable General Obligation Urban Renewal Bonds and Authorize the Use of a Preliminary Official Statement.

Vote 18-636: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(a) Han Plat of Survey, Section 8-77-25 SE Warren County - Create One Parcel for Transfer of Ownership, initiated by Big Otter Creek, LLC

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

Vote 18-637: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(b) Fusion Bistro, LLC d/b/a Fusion Bistro, 3701 EP True Parkway, Suite 400 - Class LC Liquor License with Native Wine, Sunday Sales, Outdoor Service, and Catering Privileges - New

City Attorney Dick Scieszinski reported that staff is recommending denial of this application, because the applicant has a felony conviction and has not had his citizenship rights restored. The Iowa Code states that a person with a felony conviction can only obtain a liquor license if it is more than five years old and they have had their citizenship rights restored.

Gary Baccam, Fusion Bistro, LLC, stated when he was 20 years old, he made a lot of bad decisions, but he has spent the last 14 years giving himself back to his community and pursuing a career in the IT industry. He stated it had been a lifelong dream of his to own a restaurant, but he is finding that it is difficult for his restaurant to compete without a liquor license.

The Mayor and Council discussed this application, stating it is unfortunate that this liquor license must be denied under the statute of the Iowa Code, and they expressed a desire to help the applicant find a way to make it work.

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

Vote 18-638: Hardman, Mickelson, Trevillyan, Trimble ... 4 yes
Sandager ... 1 no

Motion carried.

On Item 8(a) Claire Celsi Resignation - Board of Adjustment - Received and Filed

Council member Trevillyan stated a reception for Ms. Celsi will be held on November 28th.

On Item 9 - Other Matters: none

November 26, 2018

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

Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Steven K. Gaer, Mayor