

October 7, 2019

West Des Moines City Council Proceedings
Monday, October 7, 2019

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, October 7, 2019 at 5:30 PM. Council members present were: R. Hardman, J. Sandager, K. Trevillyan, and R. Trimble.

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

Vote 19-464: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 2. Public Forum

Don Newquist, 4204 Commerce Drive, expressed concerns about the excessive amount of storm water runoff that flows though his property during rainfalls, and he requested that the City address the issue.

Mayor Gaer requested that staff look into the matter, identify some recommendations, and then present those recommendations at an upcoming meeting of the Public Services Subcommittee.

City Attorney Dick Scieszinski stated this is an unfortunate situation, as Mr. Newquist's property is at the lowest point along Commerce Drive, so it receives a majority of the storm water runoff. He reported that an investigator from the Iowa Communities Assurance Pool (ICAP) conducted an investigation on the property, but determined that the property was built to the standard at the time, therefore the City is not liable for these issues.

Richard Adams, 4510 Commerce Drive, expressed concerns about the excessive amount of storm water runoff that flows though the Newquist property during rainfalls. He suggested the issue could be resolved by installing a culvert or a swale with a steel plate.

Bob Perkins, 4307 Commerce Drive, reported he believes he may have hit a spring while installing a sump pump in his basement, and he requested that City staff visit his property to assess the situation and provide some direction.

Steve Morris, 4035 Commerce Drive, expressed concerns about the excessive amount of storm water runoff that flows though the properties along Commerce Drive during rainfalls. He reported the storm water previously flowed to the north, but due to the new houses that have been built to the north, the water now flows to the south, and their properties are receiving more storm water than ever before.

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

Council member Trimble reported the Finance and Administration Subcommittee met and received a financial update regarding the MidAmerican Energy RecPlex project, a new lobbying services agreement, and FY2019-20 budget amendment #1.

Council member Hardman commended Fire Chief Craig Leu and the Fire Department for hosting the annual memorial ceremony on Sunday, October 6th. She reported the Public Safety Subcommittee met, where discussion was held on the upcoming visit by Vice President Pence. She also reported she attended a meeting of the Library Board of Trustees, where discussion was held on the upcoming renovation project.

Mayor Gaer congratulated West Des Moines Human Services for a successful “Sunday Supper in Our Town” fundraiser, which raised approximately \$50,000.

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 September 16, 2019 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 - 1. On The Rise Valley West, LLC, d/b/a Blaze Pizza, 1551 Valley West Drive, Suite 225 - Class BW Permit with Sunday Sales and Outdoor Service - Renewal
 - 2. 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
 - 3. 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
 - 4. Kiss My Grits, LLC, d/b/a The Irish, 560 South Prairie View Drive - Class LC Liquor License with Sunday Sales and Outdoor Services - Renewal
 - 5. Jethro’s and Jaspers, Inc. d/b/a Jethro’s Jambalaya, 9350 University Avenue - Class LC Liquor License with Sunday Sales, Outdoor Service, and Catering Privileges - Renewal
 - 6. Kum & Go, LC, d/b/a Kum & Go #532, 5901 Mills Civic Parkway, Building 2000 - Class LE Liquor License with Carryout Beer, Carryout Wine, and Sunday Sales - Renewal
 - 7. Kum & Go, LC, d/b/a Kum & Go #1097, 220 50th Street - Class LE Liquor License with Carryout Beer, Carryout Wine, and Sunday Sales - Renewal
 - 8. Monterrey III, LLC, d/b/a Monterrey III, 6630 Mills Civic Parkway, Unit 3116 - Class LC Liquor License with Sunday Sales - Renewal
 - 9. SA Petro Mart, Inc., d/b/a SA Petro Mart, 136 1st Street - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal

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10. Shri Hari, LLC d/b/a West D Liquors, 5014 EP True Parkway - Class LE Liquor License with Carryout Beer, Carryout Wine, and Sunday Sales - New
11. Xcaret Club and Lounge, LLC d/b/a Xcaret Club and Lounge, 2700 University Avenue, Suite 200 - Class LC Liquor License - Renewal
- d. Approval of Appointment - Civil Service Commission
- e. Approval of Memorandum of Understanding - Public Safety Cadet Program
- f. Approval of Professional Service Agreements - Youth Justice Initiative Director and Consultant
- g. Approval of Agreement - Lobbying Services
- h. Approval of Purchase - Ice Resurfacer for MidAmerican Energy RecPlex
- i. Approval of Real Estate Donation Agreement - Whisper Ridge
- j. Approval of Change Order #1 - Fiber Conduit Interconnect Project (Green Route)
- k. Approval of Updated Bond Disclosure Policy
- l. Accept Work:
 1. 2018 HMA Resurfacing Program
 2. Human Services Child Care Center and Medical Clinic
 3. 2019 Concrete Trail Renovation
 4. Woodland Hills Park Loop Trail
- m. Accept Public Improvements - Covenant Cove Plat 1
- n. Approval of Agreement with MidAmerican Energy Company to Extend Electrical Services - City Entrance Enhancements, Phase 1B
- o. Approval of Lease for Library Temporary Storage - Library Interior Renovations
- p. Approval of Transfer of Public Road Jurisdiction - Portion of Wendover Road on the South Side of I-80
- q. Approval and Acceptance of Hold Harmless and Maintenance Agreement - Holiday Lighting in Railroad Park and the 5th Street Arch
- r. Approval of Pole Attachment Contract with MidAmerican Energy Company - Valley Junction Broadband Equity Pilot
- s. Approval of Termination of Development Agreement - Chelious, LLC, Tea Times Two, LLC and Judy Ks
- t. Approval to Release Lot 2 of Osmium West Plat 1 from the Project Osmium Development Agreement and Minimum Assessment Agreement

Vote 19-465: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 5(a) Vacation of a Portion of Booneville Road Right-of-Way, 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 19-466: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

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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 19-467: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

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

Vote 19-468: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider The Preserve, generally south of Raccoon River adjacent to the future extension of SW Grand Prairie Parkway - Amend Comprehensive Plan Land Use Map to Designate Single Family, Medium Density Residential and Agricultural/Open Space Land Use and Establish The Preserve Planned Unit Development (PUD) and Agricultural/Open Space Zoning, 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 September 18, 2019 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 4-0, with two members abstaining and one member absent, the Plan and Zoning Commission recommended City Council approval of the comprehensive plan amendment and PUD ordinance. He also stated one citizen correspondence was received, which was included with the council communication.

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 Comprehensive Plan Amendment.

Vote 19-469: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

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

Vote 19-470: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 19-471: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

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

Vote 19-472: Hardman, Sandager, Trevillyan, 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 (PUD).

Vote 19-473: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 6(b) Mayor Gaer indicated this was the time and place for a public hearing to consider Jordan West, southwest corner of EP True Parkway and Jordan Creek Parkway - Amend the Specific Plan Ordinance by Rezoning the Southern Portion of PUD Parcel 7 from Support Commercial to Regional Commercial to Allow for Construction of an Indoor Family Entertainment Venue, initiated by Ryan Companies US, Inc. He asked for the date the notice was published and the City Clerk indicated the notice was published on September 18, 2019 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 zone change specific plan.

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 19-474: Hardman, Sandager, Trevillyan, Trimble...4 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.

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Vote 19-475: Hardman, Sandager, Trevillyan, Trimble...4 yes
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 6 (Commercial, Office and Industrial Zoning District), Section 5 (Use Codes) - Modify Certain Regulations as They Pertain to Physical Fitness Facilities, 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 September 18, 2019 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 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 19-476: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 19-477: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

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 7 (Setback and Bulk Density Regulations) - Update Regulations Pertaining to Rear Yard Setback Requirements for Accessory Structures in Residential Zoning Districts, 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 September 17, 2019 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 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.

Council member Sandager requested clarification on this ordinance amendment.

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Lynne Twedt, Development Services Director, reported there is a growing trend to put a covered deck on the back of a house, which makes it part of the principal structure and subject to the more stringent principal structure setbacks. This ordinance amendment essentially reverts back to the previous ordinance by reducing the principal structure rear yard setback to 20 feet.

Vote 19-478: Hardman, Sandager, Trevillyan, Trimble...4 yes
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.

Vote 19-479: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 6(e) Agreement for Private Development, initiated by The Iowa Clinic West Lakes I, LLC and The Iowa Clinic, P.C. (Continued from September 3, 2019 and September 16, 2019).

It was moved by Sandager, second by Trevillyan to adopt Motion - Continue Public Hearing to October 21, 2019.

Vote 19-480: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 6(f) Mayor Gaer indicated this was the time and place for a public hearing to consider Corrected Michael's Landing Plat 1, Outlot C - Termination of Permanent Storm Sewer Easement and Approval and Acceptance of Conveyance of Property Interests, 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 September 28, 2019 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 - Approval of Termination of Permanent Storm Sewer Easement and Approval and Acceptance of Property Interests.

Vote 19-481: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 6(g) Mayor Gaer indicated this was the time and place for a public hearing to consider Conveyance of Permanent Public Utility Easement to MidAmerican Energy Company -

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Northeast corner of South 81st Street and Mills Civic Parkway, 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 September 28, 2019 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 - Approval of Conveyance of Easement.

Vote 19-482: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 6(h) Mayor Gaer indicated this was the time and place for a public hearing to consider 2019-20 FY Operating and Capital Budget - Amendment #1, 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 September 27, 2019 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 - Approval of Budget Amendment #1.

Vote 19-483: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 6(i) Mayor Gaer indicated this was the time and place for a public hearing to consider Fiber Conduit Inter-Connect Project - Purple Route and Duct Bank, 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 September 27, 2019 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 - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Kramer Service Group.

Vote 19-484: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 6(j) Mayor Gaer indicated this was the time and place for a public hearing to consider South 85th Street, Cascade Avenue to Mills Civic Parkway, 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 September 27, 2019 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 - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Alliance Construction Group, LLC.

Vote 19-485: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 6(k) Mayor Gaer indicated this was the time and place for a public hearing to consider Library Interior 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 September 27, 2019 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 Hardman, second by Sandager to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Edge Commercial, LLC.

Vote 19-486: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 6(l) Mayor Gaer indicated this was the time and place for a public hearing to consider City Entrance Enhancements, Phase 1B, 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 September 27, 2019 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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Mayor Gaer noted staff is recommending the project be re-bid later this fall with an extended completion date.

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 - Reject All Bids.

Vote 19-487: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 7(a) Woodsprings Suites, 7255 Lake Drive - Approval of Site Plan to Develop a Four-Story, 81 Room Hotel, initiated by VKB Management

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 19-488: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 7(b) Excess Property Related to Installation of Storm Sewer near 1st Street and Grand Avenue - Plat of Survey to Create Two Parcels for Transfer of Ownership, initiated by the City of West Des Moines

It was moved by Trimble, second by Trevillyan to adopt Resolution - Approval and Release of Two Plats of Survey.

Vote 19-489: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 7(c) Excess Property Related to Realignment of Mills Civic Parkway and South 88th Street - Plat of Survey to Create Two Parcels for Transfer of Ownership, initiated by the City of West Des Moines

It was moved by Trimble, second by Trevillyan to adopt Resolution - Approval and Release of Two Plats of Survey.

Vote 19-490: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 7(d) Scotty's Pub 1, LLC d/b/a Scotty's Pub & Grub, 3781 EP True Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal

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Mayor Gaer noted the council communication explains the reasons for the staff recommendation to deny this renewal application.

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

Mindy West, 1624 22nd Street, Des Moines, representing Scotty's Pub & Grub, spoke in support of the renewal application for Scotty's Pub & Grub. She stated it is not fair because he was not able to get an attorney to represent him tonight, and she inquired why the City is denying this application.

City Attorney Dick Sciesinski reported in order to qualify to hold a liquor license, a person must be of "good moral character," which would include following the law and being in good financial standing. He stated that Scott Thomas' record indicates he does not meet the definition of "good moral character." He also noted that the renewal application failed to disclose his most recent criminal charges, which is considered a misrepresentation of material fact and is also cause for denial.

Ms. West stated the application did not disclose the pending criminal charges because they were not alcohol-related. She also inquired why the City granted the liquor license to Mr. Thomas initially with his previous record, but is now denying his renewal.

City Attorney Scieszinski responded a number of the incidents and issues listed in the council communication have occurred since his previous renewal was approved in 2018.

Ms. West stated it is sad that the renewal for Scotty's Pub & Grub is being denied, because Mr. Thomas just wanted to provide a family restaurant for the community, but then these unfortunate events occurred, however she does not have enough information to speak to them herself tonight.

Vote 19-491: Hardman, Sandager, Trevillyan, Trimble...4 yes
Motion carried.

On Item 8(a) Lori Lavorato Resignation - Civil Service Commission - Received and Filed

On Item 9 - Other Matters

Council member Hardman reported she attended a farewell reception for Mark Hillenbrand, who is a former citizen of the year and current member of the Human Rights Commission, but is moving out of the City of West Des Moines. She expressed appreciation to Mark for his service to the community.

The meeting was adjourned at 6:22 p.m.

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Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Steven K. Gaer, Mayor