

November 4, 2019

West Des Moines City Council Proceedings
Monday, November 4, 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, November 4, 2019 at 5:30 PM. Council members present were: R. Hardman, J. Mickelson, and K. Trevillyan. Council member R. Trimble participated via telephone.

City Clerk Ryan Jacobson noted a correction has been made to the Resolution for Item 4(g) Establish Public Hearing - Amendment #1 to the Historic West Des Moines Urban Renewal Area, as the December 2nd public hearing will be held at West Des Moines School District Learning Resource Center, 3550 Mills Civic Parkway.

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

Vote 19-515: Hardman, Mickelson, Trevillyan, Trimble...4 yes
Motion carried.

Council member Sandager arrived at 5:32 p.m. The attendance was re-taken. Council members present were: R. Hardman, J. Mickelson, J. Sandager, and K. Trevillyan, with R. Trimble participating via telephone.

On Item 2. Public Forum

Erin Sears, 1115 27th Street, Des Moines, expressed concerns regarding the City's response after she was attacked by a dog while visiting her mother's home at 528 9th Street on June 1, 2019. She stated after her incident the City determined the dog was not a vicious animal, but she disagreed with that determination. After a subsequent attack of a mail carrier on September 28, 2019, the City then determined the dog to be vicious. She noted that, due to the continued presence of a vicious dog on the street, the US Postal Service has stopped home delivery to the residents and is planning to install a community mailbox at the end of the street, which would require some of the residents to walk past the home with the vicious dog.

City Attorney Dick Scieszinski reported the City defers to its animal control staff when a determination is needed on a dog that may be considered vicious, and the City did follow proper protocol in this case. Upon investigating the June incident, the animal control officer determined that the dog was not vicious, but conditions were imposed on the owners to prevent any future attacks. After the September incident, the animal control department conducted another investigation and then determined the dog was vicious. Rather than requiring the dog be euthanized, the City imposed additional conditions on the owners, including a \$100,000 insurance policy, a requirement that the dog be kept inside or fenced in at all times, it must be muzzled and on a leash if out in public, and it is not allowed at any city park or gathering place

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with children. He also reported that City staff has contacted the US Postal Service and inquired if they would restore home delivery if the dog was removed from the neighborhood, but they have yet to provide a response.

Council member Trevillyan stated he believes city staff erred in its investigation of the June incident, as he does not believe the attack was provoked. He also noted the owners of the dog have not met their requirements of keeping their gate closed at all times or posting a “vicious animal” sign. He stated he believes it is unfair to all the other residents on the street that they feel they can’t safely walk down their street, and he expressed his desire that the City take action to have the dog removed.

Maria Arthur, 508 9th Street, expressed concerns about the safety of the residents that walk past the home of the vicious dog, especially the children that walk down 9th Street to get to Wilson Park.

Lyndzy Murtha, 539 9th Street, expressed concerns that the residents were not made aware of the vicious animal on their street until the US Postal Service stopped home delivery. She also expressed concerns about the safety of the residents when they are outside with a vicious animal present, and she noted there are issues with other dogs in the neighborhood that run loose as well. She also expressed concerns that the residents may be required to disclose the presence of a vicious animal if they should sell their home. She requested that the City address the issue and suggested the dog should be removed. She also presented a petition with signatures from other residents that share her concerns.

Sean Murtha, 539 9th Street, expressed concerns that he and his family can’t be outside on their own property without fear of a potential attack if the vicious dog happens to run loose. He noted he has looked into installing a chain link fence for protection, but he feels that should not be necessary. He also expressed concerns that the entire neighborhood is being punished for the actions of one household. He requested that the City address the issue and suggested the dog owners could be required to put their dog through obedience training.

Council member Hardman stated this is an issue that means a lot to the people that are here today, and the Council’s role is to listen, learn, lead, and then make a decision. She stated she first learned that the US Postal Service had stopped home delivery on 9th Street when she attended a neighborhood association meeting on Saturday, November 2nd, and she believes that is terribly inconvenient for the neighbors. She thinks we need to get to the facts, and we need to get to the situation. She stated she is never in favor of euthanizing a pet, as she is a pet owner herself; however, she is in favor of ensuring the safety of the citizens. She expressed support for the Council receiving all the information they need to make the best decision possible, because this is the first that the Council is faced with having to make a decision on this matter. She expressed appreciation to the citizens in attendance, because this is how City government works, as the citizens get to voice their concerns and the Council needs to listen and lead.

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The Council held further discussion on the situation and expressed a desire to ensure the safety of the residents.

Mayor Gaer requested that staff conduct another investigation to determine if there is any additional information that would change the City's determination on the requirements imposed for the vicious animal. He also requested that this matter be included on the agenda for the November 18th City Council meeting.

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

Mayor Gaer read a proclamation recognizing Claudia Henning and her contributions to the Youth Justice Initiative. He then presented her with a Key to the City.

Council member Trevillyan reported he attended a groundbreaking ceremony for the "LIGHT Valley Junction" project, and the light display will be illuminated in conjunction with the Jingle in the Junction event on November 21st.

Council member Hardman reported she participated in a service project with the Taste of the Junction organization at Meals from the Heartland. She also commended the Taste of the Junction organization for its efforts in preserving the history of the Valley Junction community.

Mayor Gaer reported he swore in six new police officers at the Law Enforcement Center on Friday, October 25th.

Council member Hardman reported on Friday, October 25th at the Law Enforcement Center, there was also a dedication of a fallen officer memorial, and she commended Boy Scout Jim Clark, who raised the money for the memorial and designed it himself.

On Item 4. Consent Agenda.

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

- a. Approval of Minutes of October 21, 2019 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 1. Frank's Divine Pie 2800, LLC d/b/a Gusto Pizza Company, 2800 University Avenue, Suite 400 - Class BW Permit with Sunday Sales and Outdoor Service Privileges - Renewal
 2. Mac Shack, LLC d/b/a Mac Shack, 1551 Valley West Drive, Suite 253 - Class LC Liquor License with Sunday Sales - Renewal
 3. LVP SHS Des Moines Holding Corp. d/b/a Springhill Suites Hotel, 1236 Jordan Creek Parkway - Class BC Permit with Sunday Sales - Renewal

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4. Target Corporation d/b/a Target Store T-0069, 1800 35th Street - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
- d. Approval of Change Orders:
 1. MidAmerican Energy RecPlex - Grading and Site Utilities
 2. Veterans Parkway, SE 50th Street to SW 60th Street, #4
 3. Booneville Road Reconstruction, South 88th Street to west of South 100th Street, #5
- e. Accept Work:
 1. 2017 Intake Repair Program
 2. Grand Avenue Trail Improvements, Fuller Road to Jordan Creek
 3. Kiwanis Park Shelter
- f. Approval to Initiate Development Agreement - Junction House 329, LLC
- g. Establish Public Hearing - Amendment #1 to Historic West Des Moines Urban Renewal Area
- h. Approval of Participating Provider Agreement - Iowa Total Care, Inc.
- i. Proclamation - Recognition of Claudia Henning

Vote 19-516: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5 - Old Business: no items

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider Midtown Redevelopment, east side of 8th Street (1221 to 1261) - Establish a Planned Unit Development (PUD) to Allow Development of a Vertical Commercial and Residential Mixed-Use Development, initiated by Jarcor, LLC (Continued from October 21, 2019). He asked for the date the notice was published and the City Clerk indicated the notice was published on October 4, 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 PUD ordinance.

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

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

Vote 19-517: 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 Mickelson to approve the first reading of the ordinance.

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Vote 19-518: 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 Agreement for Private Development, initiated by Bryken, LLC, Martin's Flag Company, LLC and Quill & Nib, LLC. He asked for the date the notice was published and the City Clerk indicated the notice was published on October 25, 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 Trevillyan, second by Mickelson to adopt Resolution - Approval of Agreement.

Vote 19-519: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(c) Mayor Gaer indicated this was the time and place for a public hearing to consider Vacation of a Portion of Former SE 11th Street as a Public Street and Termination of Public Street Right of Way Easement, 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 October 30, 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 Trevillyan, second by Hardman to adopt Resolution - Approval of Vacation and Termination of Public Street Right of Way Easement.

Vote 19-520: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(a) Scheels Warehouse, 175 South 9th Street, Building 300 - Approval of Site Plan to Construct a 30,000 sq. ft. Warehouse, initiated by Scheels All-Sports, Inc.

It was moved by Trevillyan, second by Hardman to adopt Resolution - Approval of Site Plan and Approval and Acceptance of Sanitary Sewer Easement, subject to the applicant complying with all applicable City Code requirements and the conditions of approval listed in the Resolution.

Vote 19-521: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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On Item 7(b) Jordan Creek Urban Renewal Area - Terminate the Urban Renewal Area and Repeal Ordinance Nos. 1414, 1559, 2203, and 2313, initiated by the City of West Des Moines

It was moved by Trimble, second by Mickelson to adopt Resolution - Approval to Terminate the Urban Renewal Area.

Vote 19-522: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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

Mayor Gaer noted the Jordan Creek Urban Renewal Area serves as an example of an ideal TIF district, as it has generated \$688 million of value.

Vote 19-523: 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 Mickelson to approve the first reading of the ordinance.

Vote 19-524: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(c) Excess Property Related to the Grand Prairie Parkway Improvements Project - Three Plats of Survey to Create Three Parcels for Transfer of Ownership, initiated by the City of West Des Moines

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

Vote 19-525: Hardman, Mickelson, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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

On Item 9 - Other Matters

Council member Hardman noted former City Council member Bob Parks is in the audience tonight, and she expressed appreciation for his service to the community.

The meeting was adjourned at 6:23 p.m.

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Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Steven K. Gaer, Mayor