

July 6, 2020

West Des Moines City Council Proceedings
Monday, July 6, 2020

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 6, 2020 at 5:30 PM. Council members present were: R. Hardman, G. Hudson, M. McKinney, and K. Trevillyan. Council member R. Trimble participated via telephone.

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

Vote 20-235: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

On Item 2. Public Forum

Richard Rogers, 2417 Fuller Road, expressed concerns that the West Des Moines City Code and the conduct policy for the West Des Moines Public Library both prohibit patrons from possessing firearms or weapons on the premises, but the Iowa Code prohibits political subdivisions from regulating firearms or weapons more strictly than state law. He requested that the West Des Moines City Code and Library conduct policy be amended to maintain consistency with the Iowa Code.

Mayor Gaer requested that City Attorney Scieszinski prepare a written legal opinion to address Mr. Rogers' concerns, and the matter be placed on the agenda for discussion at the next meeting of the Public Safety Subcommittee.

Brian Fox, 208 Hillside Avenue, requested that the City consider a City Code amendment to allow the raising of chickens in residential areas of West Des Moines. He also provided information on other cities' ordinance requirements as a potential template for such an ordinance.

Kelsey Say, 212 Hillside Avenue, also requested that the City consider a City Code amendment to allow chickens in residential areas of West Des Moines. She stated she is currently moving from Des Moines to West Des Moines, and she is disappointed she will not be able to bring the chickens she has been raising to her new home.

Sabrina Robello, 205 Hillside Avenue, also requested that the City consider a City Code amendment to allow chickens in residential areas of West Des Moines. She stated she recently moved to West Des Moines and was looking forward to raising chickens for egg-laying purposes, but she was disappointed to learn that is prohibited by the West Des Moines City Code.

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

Council member Hardman stated she received a number of complaints from residents regarding the use of fireworks over the Independence Day weekend. She suggested the matter be discussed at an upcoming meeting of the Public Safety Subcommittee.

Council member Trimble stated he is excited about Consent Agenda Item 4(e) Appointment of Chandlor Collins to the Human Rights Commission.

On Item 4. Consent Agenda.

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

- a. Approval of Minutes of June 15, 2020 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 1. BLH Acquisition Co, LLC d/b/a Bar Louie, 7105 Mills Civic Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service - New
 2. Fara, Inc. d/b/a Cabo Sol Mexican Restaurant, 5010 Mills Civic Parkway, Suite 100 - Class LC Liquor License with Sunday Sales - New
 3. Crazy Chicken, LLC, d/b/a Chicken Coop Sports Bar & Grill, 1960 Grand Avenue, Suite 23 - Class LC Liquor License with Sunday Sales and Catering Privileges - Renewal
 4. NVN WDM, LLC d/b/a Courtyard Des Moines West/Jordan Creek, 410 South 68th Street - Class LB Liquor License with Sunday Sales - Renewal
 5. Blue Monday, LLC d/b/a Eggs & Jam, 1907 EP True Parkway, Suite 101 – Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
 6. El Fogoncito, Inc. d/b/a El Fogon, 5465 Mills Civic Parkway, Suite 101 – Class LC Liquor License with Sunday Sales, Outdoor Service, and Catering Privileges – New
 7. Hy-Vee, Inc. d/b/a Hy-Vee Market Grille #4, 555 South 51st Street (Grille Area) – Class LC Liquor License with Sunday Sales - Renewal
 8. P. F. Chang’s China Bistro, Inc., d/b/a P. F. Chang’s China Bistro, 110 South Jordan Creek Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
 9. Red Lobster Restaurants, LLC d/b/a Red Lobster #0796, 3838 Westown Parkway - Class LC Liquor License with Sunday Sales - Renewal
 10. Stu’s Petroleum, LLC d/b/a Valley West Corner Store, 1400 Valley West Drive – Class LE Liquor License with Carryout Beer, Carryout Wine, and Sunday Sales – New
- d. Approval of Tobacco Permit
- e. Approval of Appointment - Human Rights Commission

- f. Approval of Contract Agreement - Chartered Bus Services
- g. Approval of Change Orders:
 - 1. MidAmerican Energy RecPlex - General Construction, #1
 - 2. MidAmerican Energy RecPlex - Pre-Engineered Metal Building, #4
 - 3. MidAmerican Energy RecPlex - Foundations, #4
 - 4. West Public Services Facility - Buildings and Site Improvements, #9
- h. Approval of Amendment No. 1 to Professional Services Agreement - West Des Moines Digital Enterprise
- i. Approval of 28E Agreement with the Iowa Department of Transportation - Shared Salt Facility
- j. Order Construction:
 - 1. Fiber Conduit Interconnect (Teal Route)
 - 2. Sugar Creek Greenway Trail, Phase 1
 - 3. Raccoon River Park Exterior Lighting Improvements
- k. Approval of Professional Services Agreements:
 - 1. 2020 Channel Repair Program
 - 2. 2020 Pavement Markings and On-Street Bike Markings Program
 - 3. 2020 Sewer Cleaning and Televising Program
 - 4. 2020 Sewer Rehabilitation Program
 - 5. 2020 Stormwater Intake Repair Program
 - 6. 2021 HMA Resurfacing Program
 - 7. 2021 PCC Patching and Medians Program
 - 8. 2021 Street Reconstruction Program
 - 9. Construction Testing Services
- l. Establish Public Hearing Regarding the Final Design, Site Selection and Consideration of Acquiring Agricultural Property - South Area Trunk Sewer Western Extension
- m. Establish Consultation Meeting and Public Hearing - Amendment #2 to the Midtown Urban Renewal Area
- n. Approval of Amendment No. 1 to Development Agreement - ComPort, LLC and Legacy Capital Partners, Inc.
- o. Approval and Acceptance of Purchase Agreements and Property Interests – Grand Avenue Reconstruction, 1st Street to 4th Street and Northeast Basin 4th Street and Ashworth Road Storm Sewer Improvements
- p. Approval of Reservation of Permanent Easements - Southwest Corner of 1st Street and Ashworth Road
- q. Approval of State Economic Development Financial Incentives - ClaimDoc, LLC

Vote 20-236: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(a) Banks Landing, northwest corner of 88th Street and Booneville Road - Amend the Tallyn's Reach Planned Unit Development (PUD) to Change Parcel I from Neighborhood Commercial to Parcel J (Residential Single Family) and Parcel G (Medium Density Residential)

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and Establish Regulations to Accommodate Development of 52 Rowhouses and 21 Single Family Homes, initiated by Clark Family Investors

It was moved by Trevillyan, second by McKinney to consider the second, third readings and final adoption of the ordinance.

Vote 20-237: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 20-238: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

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

Vote 20-239: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(b) Village on Jordan Creek, southwest corner of Jordan Creek Parkway and Ashworth Road - Establish the Village on Jordan Creek Planned Unit Development (PUD), initiated by Czech Mate, LLC

It was moved by McKinney, second by Trevillyan to adopt Motion - Continue Item 5(b) to July 20, 2020.

Vote 20-240: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(c) Mills Landing, southeast corner of South 60th Street and Mills Civic Parkway - Establish the Zone Change Specific Plan for the Intended Development, initiated by Shree Ram Development, LLC

It was moved by Hardman, second by Trevillyan to consider the second, third readings and final adoption of the ordinance.

Vote 20-241: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

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The City Clerk read the preamble to the ordinance.

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

Vote 20-242: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

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

Vote 20-243: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(d) Linnwill Hy-Vee, 210, 220 and 300 Grand Avenue - Establish the Linnwill Hy-Vee Planned Unit Development (PUD), initiated by Hurd Indianola, LLC

It was moved by Trevillyan, second by McKinney to consider the second, third readings and final adoption of the ordinance.

Vote 20-244: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 20-245: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

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

Vote 20-246: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(e) Vacation of a Portion of SE Maffitt Lake Road Right of Way, initiated by the City of West Des Moines

It was moved by Hardman, second by Hudson to consider the second, third readings and final adoption of the ordinance.

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Vote 20-247: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 20-248: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

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

Vote 20-249: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(a) The Wilder Pines, 1000 and 1100 South 60th Street - Approve a Comprehensive Plan Land Use Map Amendment and Establish a Planned Unit Development (PUD) for Single Family Residential Development, initiated by The Pines, LLC

It was moved by Trevillyan, second by McKinney to adopt Motion - Continue Public Hearing to July 20, 2020.

Vote 20-250: Hardman, Hudson, McKinney, 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 Economic Development Digital Enterprise Urban Renewal Area, 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 June 26, 2020 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 Hudson to adopt Resolution - Approval of Urban Renewal Plan Amendment.

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

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Vote 20-251: Hardman, Hudson, Trevillyan, Trimble ... 4 yes
McKinney ... 1 abstain due to potential conflict of interest

Motion carried.

On Item 6(c) Mayor Gaer indicated this was the time and place for a public hearing to consider Conduit Network License Agreement (Project Peely), initiated by Google Fiber, Inc. He asked for the date the notice was published and the City Clerk indicated the notice was published on July 1, 2020 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated one correspondence was received via email.

Mayor Gaer asked if there were any public comments.

Oscar Bode, CEO of Smart City Capital of Fort Lauderdale, Florida, stated he had submitted the email correspondence, which objected to the proposed agreement. He suggested the City should have issued a request for proposals (RFP) for this project, as he believes his company could provide a greater benefit to the City than Google Fiber, Inc. He requested that the City Council table this item to allow time for further discussions.

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

Jamie Letzring, Deputy City Manager, stated the proposal suggested in Mr. Bode's email would be outside the guidelines of what is currently permitted by the Iowa Code.

Dave Lyons, consultant for the City of West Des Moines, reported the proposed agreement being considered tonight would not preclude the City from engaging in further public-private collaborations. He stated the current proposal is not a full "smart city" agenda package, but once the platform moves forward, the City could consider further "smart city" initiatives. He noted the City is not interested in setting up a system that would compete with the private sector, as that would not comply with the Iowa Code. He also stated it took six months to reach the proposed model with Google Fiber, so he does not believe that Mr. Bode's proposal could be achieved as easily as Mr. Bode is suggesting.

It was moved by Trevillyan, second by Hardman to adopt Resolution - Approval of Agreement.

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

Vote 20-252: Hardman, Hudson, Trevillyan, Trimble ... 4 yes
McKinney ... 1 abstain due to potential conflict of interest

Motion carried.

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On Item 6(d) Mayor Gaer indicated this was the time and place for a public hearing to consider Not to Exceed \$3,900,000 General Obligation Refunding Capital Loan Notes, Series 2020A, 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 June 19, 2020 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 McKinney, second by Hardman to adopt Resolution - Instituting Proceedings to Take Additional Action.

Vote 20-253: Hardman, Hudson, McKinney, 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 Not to Exceed \$1,000,000 General Obligation Urban Renewal Capital Loan Notes, Series 2020B, 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 June 19, 2020 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 Hudson to adopt Resolution - Instituting Proceedings to Take Additional Action.

Vote 20-254: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(f) Mayor Gaer indicated this was the time and place for a public hearing to consider Not to Exceed \$42,800,000 General Obligation Urban Renewal Capital Loan Notes, Series 2020C, 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 June 19, 2020 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.

Oscar Bode, CEO of Smart City Capital of Fort Lauderdale, Florida, expressed opposition to the proposed bond issuance, as he reiterated his objections to the related Conduit Network License

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Agreement with Google Fiber, Inc. that was previously approved under Public Hearing Item 6(c). He also stated the City is taking on a great deal of risk by funding this project with \$42,800,000 in bonds. He requested that the City Council table this item to allow time for further discussions.

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

It was moved by Trevillyan, second by Hudson to adopt Resolution - Instituting Proceedings to Take Additional Action.

Council member Hudson expressed support for the Conduit Network License Agreement with Google Fiber, Inc., as it will provide city-owned fiber conduit for any company to use, which will provide high-speed internet access to all residents and businesses in our city.

Council member Hardman expressed support for the Conduit Network License Agreement with Google Fiber, Inc., as she believes it will have a positive impact on our city and help address issues that affect all residents.

Mayor Gaer stated the WDM 2036 Plan, which was completed in 2016, revealed that there was a significant demand for citywide fiber conduit, so that became a priority for the City over the past several years, and this proposal offers a solution for the City to accomplish that goal and provide high-speed internet access to all residents and businesses in our city.

Todd Van Epps, Aureon Communications, requested clarification whether the package being deployed will be conduit only or if it will include fiber as well. Mayor Gaer informed him it will be conduit only. Mr. Van Eps also inquired if companies installing fiber within the conduit would have the flexibility to select particular areas of the city or if they would need to install across the entire city. Mayor Gaer informed him they would have the flexibility to select particular areas, but Google Fiber has agreed to install its fiber across the entire city and provide direct access to all property owners that desire it. Mr. Van Eps also inquired about the phasing plan, and Mayor Gaer responded the project will be divided into seven phases that are expected to be completed within two and a half years.

Council member Trimble stated this will be a technological “game changer” project, in addition to the many quality of life “game changer” projects already underway. He noted there are a number of students in West Des Moines that don’t have internet access, and this project will help make it more accessible to their families. He also noted many small businesses in the city are increasing their e-commerce presence, so this project will benefit them as well.

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

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Vote 20-255: Hardman, Hudson, Trevillyan, Trimble ... 4 yes
McKinney ... 1 abstain due to potential conflict of interest

Motion carried.

On Item 6(g) Mayor Gaer indicated this was the time and place for a public hearing to consider Ashworth Road Reconstruction, 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 June 26, 2020 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 Trevillyan to adopt Resolution - Approval of Acquisition of Agricultural Property.

Vote 20-256: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(h) Mayor Gaer indicated this was the time and place for a public hearing to consider Fiber Conduit Inter-Connect (Light Purple Route), 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 June 26, 2020 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 McKinney, second by Hudson 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 20-257: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(a) Willow Creek Villas Plat 1, north of SE Willow Creek Drive on west side of Veterans Parkway 1 Approval of Final Plat for Single Family Development and Acceptance of Public Improvements, initiated by Jerry's Homes, LLC

It was moved by McKinney, second by Hudson to adopt Resolution - Approval and Release of Final Plat and Accept Public Improvements, subject to the applicant complying with all applicable City Code requirements.

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Vote 20-258: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(b) Plat of Survey Parcel "2018-36", northern terminus of Linwill Place - Create Parcel for the Vacation of Right-of-Way and Transfer of Ownership, initiated by the City of West Des Moines

It was moved by McKinney, second by Hudson to adopt Resolution - Approval and Release of Plat of Survey, subject to the applicant complying with all applicable City Code requirements.

Vote 20-259: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(c) Lots 3 and 4 All State Industrial Plat of Survey, 1690 and 1730 All State Court - Adjust Lot line Between Two Existing Lots, initiated by Next Phase Development

It was moved by Hudson, second by McKinney 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 20-260: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes
Motion carried.

On Item 8(a) West Des Moines Water Works Audit - 2019 - Received and Filed

On Item 9(a) Human Rights Commission Strategic Plan Presentation

Sanjita Pradhan, Chair of the West Des Moines Human Rights Commission, presented an overview of the commission's strategic plan. She stated the commission's mission statement is to influence and advocate for community and government systems to ensure an inclusive, equitable and thriving community.

Ms. Pradhan requested that her fellow commission members introduce themselves. The following members introduced themselves: Mindy Begenat, Heather Schott, Lonnette Dafney, Dr. Rich Salas, and Milton Cole-Duvall. Ms. Pradhan also recognized Council member Hardman, who serves as the City Council liaison to the commission.

Ms. Pradhan stated the commission began working on this strategic plan in 2018, and the commission members have invested a great deal of time seeking feedback from the community.

Mindy Begenat, Vice Chair of the Human Rights Commission, reported the primary focuses of the commission include: relationship building, community/city awareness and training, and serving as a trusted resource for the city.

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Heather Schott, Human Rights Commission Member, requested feedback from the Mayor and Council on where they perceive gaps in education, who they are struggling to engage with, and how can the commission connect its work to the City's diversity, equity, and inclusion work.

Mayor Gaer stated he believes the Human Rights Commission are excellent subject matter experts on these issues, and he stated the elected officials are fully committed to supporting the commission's efforts. He suggested a joint workshop should be scheduled with the City Council and Human Rights Commission to further discuss these matters.

Council member Hardman expressed appreciation to Mayor Gaer for his unwavering support of the commission's efforts. She stated the commission truly wants to be engaged and work towards solving issues, and she thanked the commission members for their commitment.

Ms. Pradhan stated the commission's next step is to present this strategic plan to various community organizations involved with diversity, equity, and inclusion, such as the West Des Moines Chamber of Commerce, the West Des Moines Community School District, the West Des Moines Public Library, and the West Des Moines Police Department.

City Manager Tom Hadden stated it has been great working with the Human Rights Commission, and he is encouraged by the work they are doing. He noted, in order to accelerate the commission's progress, staff intends to request a full-time position be added in the next budget cycle for a professional dedicated to these diversity, equity, and inclusion efforts.

The Mayor and Council held further discussion and expressed support for the Human Rights Commission and its strategic plan.

The meeting was adjourned at 7:04 p.m.

Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Steven K. Gaer, Mayor