

March 15, 2021

West Des Moines City Council Proceedings
Monday, March 15, 2021

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, March 15, 2021 at 5:30 PM. Council members present were: R. Hardman, G. Hudson, M. McKinney, and R. Trimble.

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

Vote 21-082: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

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

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

Council member Trimble reported the Finance and Administration Subcommittee met and discussed potential lease agreements for sidewalk cafes on City property in Valley Junction, the 88th Street Reconstruction project, and a proposed wage adjustment for the public services operator position. He also reported he attended a meeting of the Central Iowa Water Trails governance committee, where discussion was held on the proposed governance structure for the organization.

Council member Hudson reported there is an item on tonight's agenda regarding the construction of South Grand Prairie Parkway, between Stagecoach Drive to Mills Civic Parkway, and he spoke in support of that project as a benefit for the western portion of the city. He also noted Mayor Gaer has announced he will not run for reelection later this year, and he expressed appreciation to Mayor Gaer for his years of service to the city.

Council member Hardman reported she attended a meeting of the Mayor's Task Force Committee, where they continued discussions on finalizing recommendations to be brought forward. She also reported she attended the West Des Moines Chamber of Commerce annual dinner and its monthly board meeting, where discussion was held on the Black and Brown Business Summit which will be held April 22-23. She also stated she and Police Lieutenant Anthony Giampolo attended a training on restorative practice.

City Manager Tom Hadden reported city staff is finalizing an agreement with the Iowa Department of Transportation to allow the City to use the right-of-way along I-235 for stormwater detention.

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Mayor Gaer stated that a letter was received earlier today from Mediacom objecting to City Council agenda items 4(k)1 and 6(i), as well as a letter from Mediacom alleging that the Mayor had a conflict of interest regarding the Digital Enterprise Conduit project. The Mayor stated that he would not recuse himself from future proceedings and requested that City Attorney Scieszinski provide a brief explanation regarding the City Attorney's opinion on the matter.

City Attorney Dick Scieszinski reported that Mediacom's allegations were because R&R Real Estate Advisors had assisted Google Fiber in securing office space in the Des Moines metropolitan area. The City Attorney stated that no conflict exists because: R&R Real Estate Advisors is a separate company from R&R Realty, Mayor Gaer's employer, and the Mayor has no involvement in the operation of R&R Real Estate Advisors; the Mayor did not and will not vote on any issues involving the Digital Enterprise Conduit Network project, including the License Agreement with Google Fiber, and; the agreement between R&R Real Estate Advisors and Google Fiber was not negotiated until after July 6, 2020, the date on which the Digital Enterprise Conduit project was approved by the City Council.

Mr. Scieszinski indicated that a written legal opinion addressing Mediacom's allegations would be made part of the record of the March 15, 2021 City Council meeting.

On Item 4. Consent Agenda.

Council members pulled Items 4(e), 4(g), 4(k)1, 4(k)6, and 4(o) for discussion. It was moved by Trimble, second by Hudson to approve the consent agenda as amended.

- a. Approval of Minutes of March 1, 2021 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 1. BDA3sons, LLC d/b/a 3 Sons Sports Bar & Grill, 5906 Ashworth Road - Class LC Liquor License with Sunday Sales - Renewal
 2. Montelongo, Inc. d/b/a Abelardo's Mexican Food, 5525 Mills Civic Parkway, Suite 130 - Class BB Beer Permit with Sunday Sales - Renewal
 3. Chipotle Mexican Grill of Colorado, LLC d/b/a Chipotle Mexican Grill, 1551 Valley West Drive, Suite #224 - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 4. El Rey Corporation d/b/a El Rey Burritos, 1310 Grand Avenue - Class LC Liquor License with Sunday Sales - Renewal
 5. Montes Corporation d/b/a El Toreado Mexican Bar & Grill, 3751 EP True Parkway - Addition of Outdoor Service Privileges to Existing Class LC Liquor License - New
 6. Hy-Vee, Inc. d/b/a Hy-Vee Fast & Fresh, 425 South Jordan Creek Parkway - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal

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7. Hy-Vee, Inc. d/b/a Hy-Vee Food Store & Drug Center #2, 1990 Grand Avenue - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
 8. BDF, Inc. d/b/a The Longest Yard, 122 5th Street - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 9. Quik Trip Corporation d/b/a Quik Trip #517, 1451 22nd Street - Class LE Liquor License with Carryout Wine, Carryout Beer and Sunday Sales - Renewal
 10. W West Investments, LLC d/b/a Wellman's West, 597 Market Street - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 11. W West Investments, LLC d/b/a Wellman's West Rooftop, 597 Market Street (Rooftop) - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
- d. Approval of Tobacco Permit
 - f. Approval of Artist Agreements - 2021 Art on the Campus
 - h. Approval of Change Order #15 - MidAmerican Energy RecPlex, General Construction
 - i. Approval of Contract for Office Furniture - 318 5th Street Remodel
 - j. Approval of Wage Adjustments - Public Services Operator and Operations Specialist
 - k. Order Construction:
 2. 301 Grand Avenue Demolition
 3. East Public Services Facility - Fueling Facility Updates
 4. Gas Detection and Bay Heat System Upgrades
 5. Holiday Park Access Road, 9th Street to 11th Street
 - l. Approval of Reimbursement Agreement with the West Des Moines Community School District - 2020 Channel Repair Program
 - m. Initiate Development Agreement - Junction Development Catalyst, LLC
 - n. Approval of Joint City/County Agreement with Dallas County Regarding the Grand Prairie Parkway Urban Renewal Area
 - p. Approval and Acceptance of Property Interests:
 1. South Grand Prairie Parkway, Stagecoach Drive to Mills Civic Parkway
 2. Vine Street Reconstruction, 12th Street to 14th Street
 - q. Approval of Reservation by City of Permanent Sanitary Sewer Easement - 996 SE 11th Street

Vote 21-083: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

On Item 4(e) Approval of Appointments:

1. Bicycle Advisory Commission
2. Board of Adjustment
3. Civil Service Commission
4. Plan and Zoning Commission
5. Public Art Advisory Commission
6. Sister Cities Commission

7. Human Services Advisory Board

Council member Hardman stated she loves reading the applications for the new appointments included in the council packet, and she requested that staff begin including the historical applications for the existing board/commission members being reappointed as well.

It was moved by Hardman, second by Hudson to approve Item 4(e) Approval of Appointments:

1. Bicycle Advisory Commission
2. Board of Adjustment
3. Civil Service Commission
4. Plan and Zoning Commission
5. Public Art Advisory Commission
6. Sister Cities Commission
7. Human Services Advisory Board

Vote 21-084: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

On Item 4(g) Approval of Professional Services Agreement - Raccoon River Pedestrian Bridge Capital Campaign

Council member Trimble stated he discussed this agreement with representatives from the Great Outdoors Foundation, and he supports the agreement because he believes it will bring a valuable return on the investment through donated funds.

It was moved by Trimble, second by Hudson to approve Item 4(g) Approval of Professional Services Agreement - Raccoon River Pedestrian Bridge Capital Campaign.

Vote 21-085: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

On Item 4(k)1 Order Construction - Digital Enterprise 2021 Single-Family Drop Conduit Installation and 4(k)6 Order Construction - South Grand Prairie Parkway, Stagecoach Drive to Mills Civic Parkway

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

It was moved by Trimble, second by Hardman to approve Items 4(k)1 Order Construction - Digital Enterprise 2021 Single-Family Drop Conduit Installation and 4(k)6 Order Construction - South Grand Prairie Parkway, Stagecoach Drive to Mills Civic Parkway.

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Vote 21-086: Hardman, Hudson, Trimble ... 3 yes
McKinney ... 1 abstain due to potential conflict of interest

Motion carried.

On Item 4(o) Authorize Continuation of Relief for Development Agreement Partners Impacted by COVID-19

Council member McKinney noted this Resolution would extend the relief through October 2022, and he inquired how that timeframe would compare with other governmental agencies offering similar relief.

Council member Trimble stated one challenge for businesses during the COVID-19 pandemic economic downturn is meeting the obligations for adding jobs, which could last for a longer term than the actual pandemic, so staff felt the October 2022 timeline would be appropriate. He also noted businesses owing money to the City have been making their payments.

It was moved by McKinney, second by Hardman to approve Item 4(o) Authorize Continuation of Relief for Development Agreement Partners Impacted by COVID-19.

Vote 21-087: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

On Item 5(a) West Grand Business Park-MidAmerican Energy RecPlex, 6500 Grand Avenue - Amend the Planned Unit Development (PUD) to Modify Development and Signage Regulations for Parcel 10, initiated by the City of West Des Moines

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

Vote 21-088: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 21-089: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

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

Vote 21-090: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

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On Item 5(b) University Avenue Corridor Urban Renewal Area, initiated by the City of West Des Moines

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

Vote 21-091: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 21-092: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

On Item 5(c) MidAmerican Energy RecPlex Automated Online Broadcast Service, initiated by the City of West Des Moines (Continued from March 1, 2021)

It was moved by Hardman, second by Trimble to adopt Motion - Approval of Agreement.

Council member McKinney thanked staff for the additional information provided, and he expressed support for the proposed agreement.

Vote 21-093: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider West Grand Business Park-Des Moines University, 8025 Grand Avenue - Amend the Planned Unit Development (PUD) Parcel 8 to Establish Regulations for Development of a College Campus, initiated by Des Moines University Osteopathic Medical Center (Continued from March 1, 2021). He asked for the date the notice was published and the City Clerk indicated the notice was published on February 12, 2021 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 the Plan and Zoning Commission recommended City Council approval of the PUD amendment.

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

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

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

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Vote 21-094: Hudson, McKinney, Trimble ... 3 yes
Hardman ... 1 abstain due to potential conflict of interest
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 21-095: Hudson, McKinney, Trimble ... 3 yes
Hardman ... 1 abstain due to potential conflict of interest
Motion carried.

On Item 6(b) Mayor Gaer indicated this was the time and place for a public hearing to consider Vacation Request, 1800 Industrial Circle - Vacate a Portion of a Former Cul-de-Sac Right of Way, initiated by i2 Tech, LLC. He asked for the date the notice was published and the City Clerk indicated the notice was published on March 6, 2021 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 consider the first reading of the ordinance.

Vote 21-096: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 21-097: Hardman, Hudson, McKinney, 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) - Modify Regulations Pertaining to Fences and Walls, 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 February 26, 2021 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 the Plan and Zoning Commission recommended City Council approval of the ordinance amendment.

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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 consider the first reading of the ordinance.

Council member Trimble requested clarification on this ordinance amendment.

Linda Schemmel, Development Coordinator, responded the intent of the ordinance amendment is to clarify the types of materials allowed for fences and walls and allow more flexibility to accommodate fencing within street side buffers.

Vote 21-098: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 21-099: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

On Item 6(d) Mayor Gaer indicated this was the time and place for a public hearing to consider 2021-22 FY Operating and Capital Budget, 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 February 26, 2021 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 Budget.

The Mayor and Council expressed support for the proposed budget and thanked staff for their efforts in arriving at a budget that can fund the City's essential services and priority projects, yet still reduce the overall levy rate.

Vote 21-100: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

On Item 6(e) Mayor Gaer indicated this was the time and place for a public hearing to consider Termination of Storm Sewer Easement and Conveyance of Property Interest to Underlying Fee Owner - Vine Street Reconstruction, 12th Street to 14th Street, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice

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was published on March 3, 2021 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 McKinney to adopt Resolution - Approval of Termination of Storm Sewer Easement and Conveyance of Property.

Vote 21-101: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

On Item 6(f) Mayor Gaer indicated this was the time and place for a public hearing to consider Brookview Elementary School, 8000 EP True Parkway - Conveyance of Easement for Stormwater Management Facility and Surface Water Flowage to the Waukee Community School District, 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 March 10, 2021 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 Hudson, second by Trimble to adopt Resolution - Approval of Conveyance of Easement.

Vote 21-102: Hardman, Hudson, McKinney, 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 Property Adjacent to Veterans Parkway to James J. and Debra A. Nahas Revocable Trusts, 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 March 10, 2021 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 Conveyance of Property.

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

Vote 21-103: Hardman, Hudson, Trimble ... 3 yes
McKinney ... 1 abstain due to potential conflict of interest
Motion carried.

On Item 6(h) Mayor Gaer indicated this was the time and place for a public hearing to consider 2021 HMA Resurfacing Program, 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 March 5, 2021 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 McKinney to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Des Moines Asphalt & Paving.

Vote 21-104: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

On Item 6(i) Mayor Gaer indicated this was the time and place for a public hearing to consider Digital Enterprise Conduit Deployment Segment 5, Phase 2, 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 March 5, 2021 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated one correspondence was received today, copies of which have been placed on the dais.

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

It was moved by Trimble, second by Hudson to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Communication Data Link.

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

Vote 21-105: Hardman, Hudson, Trimble ... 3 yes
McKinney ... 1 abstain due to potential conflict of interest
Motion carried.

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On Item 6(j) Mayor Gaer indicated this was the time and place for a public hearing to consider Holiday Park Little League Stormwater Pump Station Relocation, 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 March 5, 2021 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 McKinney to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Corell Contractor, Inc.

Vote 21-106: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

On Item 6(k) Mayor Gaer indicated this was the time and place for a public hearing to consider 2020 Channel Repair Program, 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 March 5, 2021 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 RW Excavating Solutions, LC.

Vote 21-107: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

On Item 6(l) Mayor Gaer indicated this was the time and place for a public hearing to consider South 41st Street and Mills Civic Parkway HAWK Beacon, 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 March 5, 2021 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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It was moved by Hudson, second by Trimble to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Van Maanen Electric, Inc.

Vote 21-108: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

On Item 7(a) 88th Street Lofts, 520 88th Street - Approval of Preliminary Plat to Create One Lot for High Density Residential Development and One Street Lot and Approval of Site Plan for the Construction of a Three-Story, 49 Unit Apartment Building, initiated by TWG Development, LLC

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

Vote 21-109: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

On Item 7(b) 2021-22 FY Hotel/Motel Tax Allocations, initiated by the City of West Des Moines

Council member Trimble noted the City had to pull back on its allocations this year due to the COVID-19 pandemic economic downturn, but he is glad the City is able to award the proposed allocations to provide funding for these organizations.

It was moved by Trimble, second by Hudson to adopt Motion - Approval of Subcommittee Recommendation.

Vote 21-110: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

On Item 7(c) Lease Agreements for Use of City Walkway as Outdoor Service Area by Local Businesses, initiated by the City of West Des Moines

City Attorney Dick Scieszinski stated there is one outstanding issue regarding how to determine whether the businesses should be allowed to keep furniture on the leased sidewalk area year-round. He noted the Public Services Department is opposed to allowing the furniture year-round, because they anticipate it would create issues for their snow removal operations.

Mayor Gaer suggested staff should have discretion to determine the length of time the furniture should be allowed on the leased sidewalk area, and if there is a disagreement, the matter could be brought to a Council subcommittee for discussion.

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It was moved by Trimble, second by McKinney to adopt Motion - Approval As To Form of Lease Agreements.

Vote 21-111: Hardman, Hudson, McKinney, Trimble...4 yes
Motion carried.

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

On Item 9(a) Legislative Updates

Jamie Letzring, Deputy City Manager, provided a brief legislative update, stating the first funnel week was last week and the second funnel will be April 2nd.

Mayor Gaer stated that, due to the Microsoft Teams outage, tonight's council workshop on the University Avenue Corridor Plan will be postponed to a later date.

The meeting was adjourned at 6:33 p.m.

Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Steven K. Gaer, Mayor