

October 4, 2021

West Des Moines City Council Proceedings  
Monday, October 4, 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, October 4, 2021 at 5:30 PM. Council members present were: R. Hardman, G. Hudson, M. McKinney, K. Trevillyan and R. Trimble.

City Clerk Ryan Jacobson stated staff is recommending the agenda be amended to remove Item 4(g) Contract Agreement - Snow Removal and Ice Control Services for Sidewalks and Crossing Guard Areas.

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

Vote 21-475: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

Mayor Gaer stated a letter was received earlier today from Mediacom objecting to Items 4(i)1 and 4(i)2.

On Item 2. Public Forum

Milton Cole-Duvall, 2001 South 40<sup>th</sup> Court, commended the City for terminating its contract with The Conley Group, Inc. for City Hall building security services and for hiring Audrey Kennis as the City's first Diversity, Equity, and Inclusion Director.

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

Council member McKinney reported he attended a meeting of the Bravo Greater Des Moines Board, and the organization announced the recipients of its second round of grants for 2021; however, he noted the availability of grant funding will be limited going forward. He also attended a meeting of the Metropolitan Advisory Council, where discussion was held on the Central Iowa Code Consortium. He also reported he attended the Raccoon River Rally, hosted by the West Des Moines Chamber of Commerce, and the grand opening of the MidAmerican Energy RecPlex, both which were great events.

Council member Trimble congratulated the West Des Moines Chamber of Commerce for doing a phenomenal job hosting the Raccoon River Rally. He also congratulated the Parks and Recreation Department for hosting the grand opening of the MidAmerican Energy RecPlex.

Council member Hudson spoke in support of regional collaboration efforts, such as the Central Iowa Code Consortium, because it pays huge dividends, as a metropolitan community is only as

strong as its weakest link.

Council member Hardman congratulated the West Des Moines Chamber of Commerce hosting a successful Raccoon River Rally, the Parks and Recreation Department for hosting the grand opening of the MidAmerican Energy RecPlex, and the Human Services Department for hosting another successful Sunday Supper in our Town fundraiser. She reported she also attended a meeting of the Historic West Des Moines Master Plan Steering Committee, where discussion was held on a potential project on 5<sup>th</sup> Street. She also thanked Police Chief Chris Scott for meeting with a resident regarding a situation.

Mayor Gaer reported he attended an oath of office ceremony at the Police Department today, where he had the privilege of swearing in a new Police Officer.

On Item 4. Consent Agenda.

Council members pulled Items 4(c)7, 4(c)8, 4(i)1, 4(i)2, and 4(n) for discussion. It was moved by Trimble, second by Hardman to approve the consent agenda as amended.

- a. Approval of Minutes of September 20, 2021 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
  - 1. Apple Corps, L.P., d/b/a Applebee's Neighborhood Grill & Bar, 6190 Mills Civic Parkway - Class LC Liquor License with Sunday Sales - Renewal
  - 2. Master of None, LLC d/b/a Barn Town Brewing, 9500 University Avenue, Suite 1110 - Class BB Beer Permit with Sunday Sales and Outdoor Service - Renewal
  - 3. Frank's Divine Pie 8950 d/b/a El Guapo's Tequila + Taco, 8950 University Avenue, Suite 105 - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
  - 4. Foundry Distilling Company, LLC d/b/a Foundry Distilling Company, 111 South 11th Street, Suite 100 - Class C Native Distilled Spirits License Expansion of Outdoor Service - October 30, 2021
  - 5. Kineth Hospitality Company, Inc. d/b/a Holiday Inn Express & Suites, 240 Jordan Creek Parkway - Class LB Liquor License with Sunday Sales - Renewal
  - 6. 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
  - 9. New York Style Pizza, Inc. d/b/a OPA! Italian & Greek Dining, 2800 University Avenue, Suite 450 - Class LC Liquor License with Sunday Sales - Renewal
  - 10. Riley Drive Entertainment I, Inc. d/b/a Tonic Bar, 5535 Mills Civic Parkway – Class LC Liquor License with Carryout Wine, Sunday Sales, Outdoor Service, and Catering Privileges - Renewal
- d. Approval of Extended Sound Permit - Nature Lodge Wedding, October 9, 2021
- e. Approval of Acknowledgment/Settlement Agreement - Violation of Tobacco Laws

October 4, 2021

- f. Approval to Sell Surplus City Equipment
- g. Removed
- h. Approval of Change Orders
  - 1. Holiday Park Little League Stormwater Pump Station Relocation, #1
  - 2. MidAmerican Energy RecPlex Audio/Video and Digital Signage, #2
  - 3. MidAmerican Energy RecPlex - General Construction, #23
- i. Accept Work:
  - 3. Ginger West Tree Clearing - South Grand Prairie Parkway, Booneville Road, Grand Avenue, and Johnson Creek
- j. Accept Public Improvements - Spring Crest Townhomes
- k. Establish Consultation Meetings and Public Hearings:
  - 1. Amendment #4 to the Historic West Des Moines Urban Renewal Area
  - 2. Amendment #5 to the Ashworth Corridor Urban Renewal Area
- l. Approval and Acceptance of Parkland Dedication Agreement and Storm Water Facility Maintenance Agreement - Grand Ridge Plat 1
- m. Approval and Acceptance of Property Interests:
  - 1. SE County Line Road, Veterans Parkway to SE Soteria Avenue
  - 2. South Area Trunk Sewer Western Extension
- n. Terminate Contract - Digital Enterprise Conduit Deployment Segment 3, Phase 3
- o. Proclamation - Global Engagement Day, October 4, 2021

Vote 21-476: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 4(c) Approval of Liquor Licenses:

- 7. 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
- 8. Kum & Go, LC, d/b/a Kum & Go #1097, 220 50<sup>th</sup> Street - Class LE Liquor License with Carryout Beer, Carryout Wine, and Sunday Sales - Renewal

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

It was moved by Trevillyan, second by Trimble to approve Items 4(c)7 and 4(c)8.

Vote 21-477: Hardman, Hudson, Trevillyan, Trimble ... 4 yes  
McKinney ... 1 abstain due to potential conflict of interest

Motion carried.

On Items 4(i)1 Accept Work - Digital Enterprise Network Segment 2 Arterial Conduit Deployment and 4(i)2 Accept Work - Digital Enterprise Conduit Deployment 2021 Multi-Family and Non-Residential Drop Installation, Phase 1

October 4, 2021

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

It was moved by Trevillyan, second by Trimble to approve Items 4(i)1 Accept Work - Digital Enterprise Network Segment 2 Arterial Conduit Deployment and 4(i)2 Accept Work - Digital Enterprise Conduit Deployment 2021 Multi-Family and Non-Residential Drop Installation, Phase 1.

Vote 21-478: Hardman, Hudson, Trevillyan, Trimble ... 4 yes  
McKinney ... 1 abstain due to potential conflict of interest  
Motion carried.

On Item 4(n) Terminate Contract - Digital Enterprise Conduit Deployment Segment 3, Phase 3

Council member Trevillyan inquired how the termination of this contract might impact the project's completion date.

Brian Hemesath, City Engineer, responded the entire project is still expected to be completed by the completion date, as other phases of the project are ahead of schedule and will meet their deadlines. This particular phase, which was already behind schedule, will be rebid at a later date. He noted the City and the contractor are mutually agreeing to terminate the contract.

It was moved by Trevillyan, second by Trimble to approve Item 4(n) Terminate Contract - Digital Enterprise Conduit Deployment Segment 3, Phase 3.

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

Vote 21-479: Hardman, Hudson, Trevillyan, Trimble ... 4 yes  
McKinney ... 1 abstain due to potential conflict of interest  
Motion carried.

On Item 5(a) Tallyn's Reach Parcel A and Parcel C, southeast corner of Mills Civic Parkway and South 91st Street - Amend the Planned Unit Development (PUD) to Designate and Regulate Neighborhood Commercial within Development Parcel C, initiated by Fareway Stores, Inc.

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

Vote 21-480: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

October 4, 2021

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

Vote 21-481: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

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

Vote 21-482: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

Mayor Gaer stated, due to a potential conflict of interest related to Item 5(b), Mayor Pro tem McKinney will preside over this portion of the meeting.

On Item 5(b) Three Fountains Commercial, 4502 to 4900 University Avenue - Amend the Planned Unit Development (PUD) to Modify Building Setbacks and Signage Allowed within the PUD, initiated by Shoppes at Three Fountains, L.C.

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

Vote 21-483: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 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 21-484: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

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

Vote 21-485: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

Mayor Gaer resumed presiding over the meeting.

On Item 5(c) Amendment to City Code - Title 9 (Zoning) - Modify Regulations Pertaining to Penalties, Fences, and Canopies, initiated by the City of West Des Moines

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

October 4, 2021

Vote 21-486: 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 21-487: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

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

Vote 21-488: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider Jordan Ridge, northwest corner of Booneville Road and South Jordan Creek Parkway - Amend Comprehensive Plan Land Use Map to Designate Office, Single Family, Medium Density Residential, and Open Space Land Uses, initiated by Robert F. Etzel Living Trust and Jordan Ridge, LLC. He asked for the date the notice was published and the City Clerk indicated the notice was published on September 17, 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, with one member absent, the Plan and Zoning Commission recommended City Council approval of the comprehensive plan 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 adopt Resolution - Approval of Comprehensive Plan Amendment.

Council member McKinney inquired if the surrounding property owners are aware of their financial responsibility regarding the larger sanitary sewer that will be needed for this area.

Lynne Twedt, Development Services Director, responded the three developers in the area are aware of the situation. She noted the requirement will be included in the resolution, which will be recorded so that it would come up in a title search for those properties.

Vote 21-489: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

October 4, 2021

On Item 6(b) Mayor Gaer indicated this was the time and place for a public hearing to consider West Des Moines/Cumming Annexation Moratorium and Subdivision Review Agreement, initiated by the City of West Des Moines (Continued from September 7, 2021). He asked for the date the notice was published and the City Clerk indicated the notice was published on September 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 Trevillyan to adopt Resolution - Approval of Agreement.

Council member Trimble inquired why the City of Cumming has requested this agreement be renewed prior to its 2023 expiration date.

Clyde Evans, Community and Economic Development Director, stated staff received the request from the City of Cumming but was not given a specific reason.

Council member Trevillyan suggested the item be continued two weeks, so staff can find out from the City of Cumming the reason for this request.

Council member Trimble rescinded his motion, and Council member Trevillyan rescinded his second to that motion.

It was moved by Trevillyan, second by Trimble to continue Item 6(b) to October 18, 2021.

Vote 21-490: Hardman, Hudson, McKinney, 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 Conveyance of Underground Electric Easement to MidAmerican Energy - 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 September 25, 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 Hardman to adopt Resolution - Approval of Conveyance of Property.

October 4, 2021

Vote 21-491: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 6(d) Mayor Gaer indicated this was the time and place for a public hearing to consider Grand Avenue West Segment 4 Sewer Extension, 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 24, 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 Acquisition of Agricultural Property.

Vote 21-492: 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 Grand Avenue, South Grand Prairie Parkway to South 115th 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 was published on September 24, 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 Hardman to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Elder Corporation.

Vote 21-493: 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 SE County Line Road, SE Soteria Avenue to Veterans 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 24, 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.



October 4, 2021

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 Elder Corporation.

Vote 21-494: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 7(a) Village on Jordan Creek Parkway Plat 1, southwest corner of Jordan Creek Parkway and Ashworth Road - Approval of Final Plat to Create Three Lots for Future Development, One Outlot and One Street Lot, initiated by Civil Engineering Consultants

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

Vote 21-495: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

On Item 7(b) SE Adams Street Elevated Water Storage, 2184 SE Adams Street - Approval of Site Plan to Allow Construction of a 195-foot-tall Elevated Water Storage Structure, initiated by West Des Moines Water Works

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 21-496: Hardman, Hudson, McKinney, Trevillyan, Trimble...5 yes  
Motion carried.

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

On Item 9 - Other Matters: no items

The meeting was adjourned at 6:20 p.m.

Council member McKinney indicated he will recuse himself from the Executive Session due to a potential conflict of interest.

It was moved by Trimble, second by Trevillyan to go into Executive Session per Chapter 21 of the Iowa Code, to discuss pending/threatened litigation.

Vote 21-497: Hardman, Hudson, Trevillyan, Trimble ...4 yes  
Motion carried.

October 4, 2021

Entered Executive Session at 6:32 p.m. with the following persons present in the Board Room of City Hall: Mayor Gaer, Council members Hardman, Hudson, Trevillyan, Trimble; Deputy City Manager, City Attorney, City Clerk, City Engineer, and retained legal counsel Jason Craig and Nathan Overberg of Ahlers & Cooney, P.C.

It was moved by Trevillyan, second by Hudson to adjourn from Executive Session.

Vote 21-498: Hardman, Hudson, Trevillyan, Trimble ...4 yes  
Motion carried.

Executive Session was adjourned at 7:56 p.m.

Respectfully submitted,

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Ryan T. Jacobson, CMC  
City Clerk

ATTEST:

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Steven K. Gaer, Mayor