

September 19, 2022

West Des Moines City Council Proceedings
Monday, September 19, 2022

Mayor Russ Trimble 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, September 19, 2022 at 5:30 PM. Council members present were: G. Hudson, M. McKinney, and K. Trevillyan.

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

Vote 22-469: Hudson, McKinney, Trevillyan...3 yes
Motion carried.

Council member Hardman arrived at 5:32 p.m. The attendance was re-taken. Council members present were: R. Hardman, G. Hudson, M. McKinney, and K. Trevillyan.

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

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

Council member Hardman reported she attended the employee appreciation picnic, and she expressed appreciation to all the staff for their hard work.

Mayor Trimble stated he also attended the employee appreciation picnic, and he expressed appreciation to all the staff for their contributions to the City.

Council member McKinney reported he attended the first responders breakfast hosted by the West Des Moines Chamber of Commerce.

Council member Hudson reported the Sunday Supper in Our Town fundraiser for West Des Moines Human Services will be held on Sunday, September 25.

Althea Holcomb, Human Services Director, reported this will be the 12th annual Sunday Supper in Our Town, and the event raises funds to provide assistance for the low-income individuals in our community. She noted West Des Moines Human Services is currently serving 1,600 households.

City Manager Tom Hadden reported the Des Moines Register recently published a series on EMS challenges throughout the state of Iowa, and he noted that agencies across the state look to West Des Moines EMS as leaders in that field. He expressed appreciation to the City's EMS department for their exceptional service.

On Item 4. Consent Agenda.

Council members pulled Item 4(e) for discussion. It was moved by Trevillyan, second by Hudson to approve the consent agenda as amended.

- a. Approval of Minutes of September 6, 2022 and September 13, 2022 Meetings
- 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. Apres Bar Co, LLC d/b/a Apres Bar Co, 1601 48th Street - 5-Day Class LC Liquor License - Effective October 10-14, 2022
 3. 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
 4. Tasting Station Restaurant Group, LLC d/b/a BeerStyles Gastropub & Taproom/SALT of the Hearth, 5513 Mills Civic Parkway - Class LC Liquor License Extension of Outdoor Service - September 24, 2022
 5. Marshall Alum, LLC d/b/a Chowrastha Indian Grill and Eatery, 5910 Ashworth Road - Class LC Liquor License with Sunday Sales and Catering Privileges - New
 6. Costco Wholesale Corporation d/b/a Costco Wholesale #788, 7205 Mills Civic Parkway - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
 7. Montes Corporation d/b/a El Toreado Mexican Bar & Grill, 3751 EP True Parkway - Class LC Liquor License with Sunday Sales - Renewal
 8. TenX Adventures 2, LLC d/b/a The Hall, 111 South 11th Street - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
 9. Envision Homes, LLC d/b/a Heart of Iowa Marketplace, 211 5th Street - Class B Native Wine Permit with Sunday Sales - Renewal
 10. Kineth Hospitality Company, Inc. d/b/a Holiday Inn Express & Suites, 240 Jordan Creek Parkway - Class LB Liquor License with Sunday Sales - Renewal
 11. Ingersoll Liquor & Beverage Co., d/b/a Ingersoll Wine Merchants, 1300 50th Street - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
 12. Butterface, LLC d/b/a The Keg Stand, 3530 Westown Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 13. 1901 Events, LLC d/b/a The Monroe, 1805 90th Street - Class LC Liquor License with Sunday Sales - New
 14. Tallgrass Theatre Company d/b/a Tallgrass Theatre Company, 2019 Grand Avenue, Suite 100 - Class BW Permit with Sunday Sales - Renewal
 15. Wall to Wall, LLC d/b/a Wall to Wall Wine and Spirits, 375 South Jordan Creek Parkway - Class LE Liquor License with Carryout Beer, Carryout Wine, and Sunday Sales - Renewal
- d. Approval of Special Event Lane Closure - 46th Street Block Party

September 19, 2022

- f. Approval of Interfund Transfers
- g. Approval of Grant Application for Iowa Clean Air Attainment Program (ICAAP) Funds - Traffic System Vehicle Detector Improvements
- h. Approval of Development Agreements (Regulatory Compliance Fund):
 - 1. Lane Properties, LLC and Lane Enterprises Corp. d/b/a Cindy's Boutique, 114 5th Street
 - 2. Lane Properties, LLC, 116 5th Street
 - 3. WB Holdings, LLC, 411 5th Street
- i. Approval and Acceptance of Property Interests:
 - 1. 8th Street Reconstruction, I-235 to Clegg Road
 - 2. Ginger West
- j. Approval of Reservation of Sanitary Sewer Easement - South Service Area Segment 8-2 Project

Vote 22-470: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

On Item 4(e) Approval of Renewal Contract Agreement - On-Call Fiber Optic Conduit Network Repair and Maintenance Services

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

It was moved by Hudson, second by Trevillyan to approve Item 4(e) Approval of Renewal Contract Agreement - On-Call Fiber Optic Conduit Network Repair and Maintenance Services.

Vote 22-471: Hardman, Hudson, Trevillyan ... 3 yes
McKinney ... 1 abstain due to potential conflict of interest
Motion carried.

On Item 5(a) The Village at Sugar Creek, northeast corner of Booneville Road and South 88th Street - Amend Comprehensive Plan Land Use Map and Amend the Planned Unit Development (PUD) to Modify Parcel Boundaries and Designate and Regulate Support Commercial Land Use within Development Parcel B, initiated by DB Booneville, LLC

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

Vote 22-472: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

September 19, 2022

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

Vote 22-473: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

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

Vote 22-474: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

On Item 5(b) Amendment to City Code - Title 9 (Zoning), Chapter 2 (Zoning Rules and Definitions), Chapter 10 (Performance Standards), and Chapter 14 (Accessory Structures) - Modify Regulations Pertaining to Accessory Structures for Recreation, Sports and Entertainment Facilities, initiated by the City of West Des Moines

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

Vote 22-475: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 22-476: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

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

Vote 22-477: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

On Item 5(c) Amendment to City Code - Title 9 (Zoning) and Title 10 (Subdivision Regulations) - Modify Regulations Pertaining to Street Side Yards on Corner Lots, initiated by the City of West Des Moines

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

September 19, 2022

Vote 22-478: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 22-479: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

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

Vote 22-480: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

On Item 5(d) Jordan Ridge Plat 1, southwest corner of South Jordan Creek Parkway and Stagecoach Drive - Approval of Final Plat to Create Three Outlots for Transfer of Ownership and Future Development, initiated by Jordan Ridge, LLC (Continued from September 6, 2022)

Mayor Trimble noted this item was continued from the September 6th meeting due to concerns expressed by residents on Eldorado Point regarding apartments being constructed on South Jordan Creek Parkway. He reported he attended a meeting with the developer to discuss those concerns, and the developer agreed they would try to address those concerns as they work on finalizing a site plan. He noted these will be high-end apartments, and the nearest apartment building to the nearest home on Eldorado Point will be 900 feet apart, so he feels comfortable with the proposed development.

It was moved by Hudson, second by Hardman 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 22-481: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

On Item 6(a) Mayor Trimble 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 District) - Modify Regulations Pertaining to National Security Facilities to be Allowed in the General Industrial Zoning 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 September 2, 2022 in the Des Moines Register. Mayor Trimble asked if any written comments

September 19, 2022

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

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

Vote 22-482: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 22-483: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

On Item 6(b) Mayor Trimble indicated this was the time and place for a public hearing to consider National Guard Readiness Center - Vacation of a 5,539 sq. ft. Parcel of Right-of-Way of SE Maffitt Lake Road, 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 2, 2022 in the Des Moines Register. Mayor Trimble asked if any written comments had been received. The City Clerk stated none had been received.

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

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

Vote 22-484: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 22-485: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

On Item 6(c) Mayor Trimble indicated this was the time and place for a public hearing to consider 2021-2022 FY Community Development Block Grant Program - Consolidated Annual Performance Evaluation Report (CAPER), initiated by the City of West Des Moines. He asked

September 19, 2022

for the date the notice was published and the City Clerk indicated the notice was published on September 9, 2022 in the Des Moines Register. Mayor Trimble asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Trimble 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 CAPER.

Vote 22-486: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

On Item 6(d) Mayor Trimble indicated this was the time and place for a public hearing to consider Community Development Block Grant Program - 2022-23 Annual Action Plan, 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 9, 2022 in the Des Moines Register. Mayor Trimble asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Trimble 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 2022-23 Annual Action Plan.

Council member McKinney noted energy costs are expected to continue increasing, so he inquired if the \$20,000 allocation for energy utility assistance will be sufficient.

Christine Gordon, Housing and Community Development Manager, reported there are certain programs with a limit of 15 percent of the total allocation.

Mayor Trimble noted the City also receives funding from the Federal Government through LIHEAP for energy assistance, and if there is a concern, the City could seek additional funding through LIHEAP.

Vote 22-487: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

On Item 6(e) Mayor Trimble indicated this was the time and place for a public hearing to consider Raccoon River Park Playground Replacement, 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 2, 2022 in the Des Moines Register. Mayor Trimble asked if any written comments had been received. The City Clerk stated none had been received.

September 19, 2022

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

It was moved by Hudson, second by Trevillyan to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Caliber Concrete, LLC.

Vote 22-488: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

On Item 7(a) West Glen Village North, 450 South Prairie View Drive - Accept of Surety for Public Improvements and Approval of Final Plat to Create 184 Lots for Multi-Family Development and Three Outlots, initiated by WD Real Estate Holdings, Inc.

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

Vote 22-489: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

On Item 7(b) Microsoft DSM 12 Fit-Out, 5855 SW Kerry Street - Approval of Major Modification to Allow Installation of Additional Site Development Improvements, initiated by Microsoft Corporation

It was moved by Trevillyan, second by Hudson to adopt Resolution - Approval of Major Modification, subject to the applicant complying with all applicable City Code requirements.

Vote 22-490: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

On Item 7(c) JG Asset's and Management, LLC, d/b/a Kaos Club, 2700 University Avenue, Suite 200 - Class LC Liquor License with Sunday Sales - New

Mayor Trimble stated the staff recommendation is to deny this liquor license, because the applicant, Jorge Sanchez, fails to meet the definition of "good moral character" related to financial responsibility and good reputation. He noted Mr. Sanchez was proven to be involved as an owner/manager of Xcaret Club and Lounge even though the license for that establishment was approved on the basis that Mr. Sanchez would have no involvement in the ownership or management of the business. He noted that Xcaret Club and Lounge was cited for two violations of the Governor's proclamation regarding Covid-19 health restrictions and did not pay any sales tax during its first two years of operation. Mr. Sanchez was charged with tax evasion and took a plea deal resulting in the charges being amended to fraudulent practice – 3rd degree. Also, in

September 19, 2022

June 2022, staff received a complaint from a concerned parent whose underage son had gone to Xcaret twice in the previous month and obtained alcohol at the establishment from other patrons then came home intoxicated. Also in June 2022, Xcaret was found to have allowed BYOB after hours (after 2:00 am) in violation of West Des Moines City Code.

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

Jorge Sanchez, 1907 Blossom Lane, Marshalltown, stated he is the owner and operator of JG Asset's and Management d/b/a Kaos Club, and he is a hard-working entrepreneur Latino. He reported in 2018, after his dance club in Marshalltown was destroyed by a tornado, he sought to take advantage of an opportunity to open a night club in West Des Moines, but his liquor license application was denied by the City, so he sold the business to his wife, Maria Mendoza. He stated the intention was he would work as the sound engineer and manage the entertainment for Xcaret. He stated both he and Ms. Mendoza were charged with tax evasion, even though Ms. Mendoza was the sole owner of the business and her failure to pay taxes was unintentional, as she had a lack of knowledge. They both chose to accept the plea deal to avoid paying thousands of dollars to take it to court. He reported the tax debt has now been paid back in full. He stated he wants to continue the business as Kaos Club because his family has invested a lot of money in this establishment and has a long-term lease for this location. He noted Xcaret has been operating as a BYOB establishment, but they do not allow minors to drink. He stated he thinks he deserves a chance, because he needs to make money for his family. He noted Xcaret has not had big fights like other establishments, as they try to keep it classy, and he doesn't believe there have been big complaints from the West Des Moines Police Department.

Lizz Carminati, 2912 East Theo Avenue, Des Moines, stated she is one of a few Latin DJ's in Iowa. She stated she has performed at Xcaret Club and Lounge and visited as a patron, and she believes it is a safe and fun environment that caters to tropical Latin music, and it promotes cultural diversity. She noted it is the only establishment of its kind in central Iowa, and she requested the Council approve this liquor license application.

Maricruz Meza, 1712 NW Prairie Creek Drive, Grimes, requested that the Council approve this liquor license application, because Mr. Sanchez has paid back the taxes owed and is showing good intentions. She stated she has discussed with Mr. Sanchez how he can change, and she believes his character is on a good path to change.

Mayor Trimble stated a liquor license is a privilege, and a person must abide by the law to qualify for it. He noted Mr. Sanchez does not meet the Iowa Code definition of good moral character.

Council member Hardman thanked Mr. Sanchez for his comments. She stated even though Mr. Sanchez does not meet the Iowa Code definition of good moral character, it has nothing to do with how he is as a father or who he is. She stated she believes approving this liquor license

September 19, 2022

application would set a precedent that could pose a challenge for future application, and, while it is a difficult decision, she believes the Council is bound by code to deny this application.

The Mayor and Council held further discussion on this liquor license application.

Vote 22-491: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

On Item 7(d) Amendment to City Code - Title 4 (Health and Safety Regulations), Chapter 4 (Nuisances) - Amend the Costs of Administrative Hearings and which Party is Responsible for Payment of Fees, initiated by the City of West Des Moines

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

Vote 22-492: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 22-493: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

On Item 7(e) Amendment to City Code - Title 7 (Public Ways and Property), Chapter 8 (Sewer Regulations), Article F (Industrial Waste) - Revisions to Fats, Oils and Grease Regulations, initiated by the City of West Des Moines

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

Mayor Trimble stated this is a very large ordinance requested by the Wastewater Reclamation Authority (WRA), and he has concerns that the regulations from that organization are overly burdensome for small businesses. He stated he has questions about these amendments that he would like answered before the ordinance is adopted.

City Attorney Dick Scieszinski stated staff will request someone from the WRA be present at the next meeting to answer questions from the Council before they take further action on the ordinance.

Vote 22-494: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

September 19, 2022

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

Vote 22-495: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

On Item 8(a) Rich Salas Resignation - Human Rights Commission - Received Filed

Mayor Trimble and Council member Hardman expressed appreciation to Dr. Rich Salas for his service and contributions to the Human Rights Commission.

On Item 9 - Other Matters

Council member Hudson and Mayor Trimble expressed their condolences for the passing of Parks and Recreation Advisory Board member Rick Swalwell, and they expressed appreciation for his service and contributions to the City's parks system.

The meeting was adjourned at 6:54 p.m.

Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Russ Trimble, Mayor