

November 21, 2022

West Des Moines City Council Proceedings  
Monday, November 21, 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, November 21, 2022 at 5:30 PM. Council members present were: R. Hardman, G. Hudson, D. Loots, M. McKinney, and K. Trevillyan.

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

Vote 22-559: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

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

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

Council member Hudson reported he attended a meeting of the Greater Des Moines Convention and Visitors Bureau, where it was reported that hotel stays have increased from the previous year, and he received positive feedback that the MidAmerican Energy RecPlex is a difference maker for the entire region. He also attended meetings of the Library Board of Trustees and the Finance and Administration Subcommittee.

Council member McKinney reported he attended a meeting of the Development and Planning Subcommittee, where discussion was held on the Microsoft DSM 13 development project.

Council member Hardman wished everyone a happy Thanksgiving.

Council member Loots reported the Midwest Collegiate Rugby Playoffs were held in West Des Moines last weekend, which brought over 1,000 people into our community.

Mayor Trimble reported that Elizabeth Presutti, CEO of the Des Moines Area Regional Transit Authority (DART), has recently submitted her resignation, so the organization will be seeking to fill that leadership role. He also noted that DART will continue seeking an alternative revenue source and is working on plans for a new bus barn facility.

On Item 4. Consent Agenda.

Council members pulled Items 4(c)3, 4(g)1, and 4(l)2 for discussion. It was moved by Hudson, second by Loots to approve the consent agenda as amended.

a. Approval of Minutes of November 7, 2022 Meeting

- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
  - 1. Aldi, Inc. d/b/a Aldi, Inc. #40, 6050 Mills Civic Parkway - Class BC Beer Permit with Carryout Wine and Sunday Sales - Renewal
  - 2. Des Moines Traders, LLC d/b/a Bawarchi Indian Grill & Bar, 6630 Mills Civic Parkway, Suite 3102 - Class LC Liquor License - Renewal
  - 4. Scissors & Scotch WDM, LLC d/b/a Scissors & Scotch, 440 South 68<sup>th</sup> Street, Suite 105 - Class LC Liquor License with Sunday Sales - Renewal
- d. Approval of Reappointments:
  - 1. Human Rights Commission
  - 2. Water Works Board of Trustees
- e. Approval of 2023-24 FY Tax Increment Financing Indebtedness and Certification Reports
- f. Approval of Change Orders:
  - 1. Crossroads Park Parking Lot and Water Quality Improvements, #9
  - 2. MidAmerican Energy RecPlex - Site Improvements, #13
- g. Approval of Amendments to Professional Services Agreements:
  - 2. Woodland Hills Greenway Trail and Bank Stabilization
- h. Approval of Contract Agreement - MidAmerican Energy RecPlex Ice Plant Maintenance
- i. Approval of Construction Contract - MidAmerican Energy RecPlex Door Hardware
- j. Approval of Interfund Transfers
- k. Order Construction - Public Safety Station #17 Dumpster Enclosure
- l. Accept Work:
  - 1. 2021 Channel Repair Program
  - 3. Park Parking Lot and Sidewalk Improvements - American Legion Park and Meadowview Park
- m. Accept Public Improvements - Kings Grove Plat 1
- n. Approval of Professional Services Agreement - 2022 Median Renovations Program
- o. Approval and Acceptance of Performance Agreement and Surety - Union 315, 315 5<sup>th</sup> Street
- p. Approval of Development Agreement (Regulatory Compliance Fund) - VJ Railroad, LLC, 401 Railroad Place
- q. Approval of Notice of Intent to Terminate 28E Agreement with Central Iowa Hospital Corporation for the Provision of Emergency Medical Services

Vote 22-560: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 4(c)3 Approval of Liquor License- Kum & Go, L.C., d/b/a Kum & Go #3035, 7265 Vista Drive - Class LE Liquor License with Carryout Beer, Carryout Wine, and Sunday Sales - Renewal

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

It was moved by Trevillyan, second by Loots to approve Item 4(c)3 Approval of Liquor License- Kum & Go, L.C., d/b/a Kum & Go #3035, 7265 Vista Drive - Class LE Liquor License with Carryout Beer, Carryout Wine, and Sunday Sales - Renewal.

Vote 22-561: Hardman, Hudson, Loots, Trevillyan ... 4 yes  
McKinney ... 1 abstain due to potential conflict of interest

Motion carried.

On Item 4(g)1 Approval of Amendment to Professional Services Agreement - Digital Enterprise Conduit Deployment Segment 3, Phases 1, 2, and 3 and Item 4(l)2 Accept Work - Digital Enterprise Conduit Deployment Segment 5, Phase 1

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

It was moved by Loots, second by Hudson to approve Item 4(g)1 Approval of Amendment to Professional Services Agreement - Digital Enterprise Conduit Deployment Segment 3, Phases 1, 2, and 3 and Item 4(l)2 Accept Work - Digital Enterprise Conduit Deployment Segment 5, Phase 1.

Vote 22-562: Hardman, Hudson, Loots, Trevillyan ... 4 yes  
McKinney ... 1 abstain due to potential conflict of interest

Motion carried.

On Item 5(a) Reconsideration of October 17, 2022 Update to the Comprehensive Plan - Modify Language of Land Use Chapter and Place Type Sheets to Clarify Intent for Context Sensitive Development, Eliminate Reference to Mapping of Environmentally Sensitive Areas, and Confirm Intensity Levels and Best Planning Practices Related to the Assignment of Land Use Classifications, initiated by the City of West Des Moines

It was moved by Loots, second by Hudson to adopt Motion - Reconsideration of Item.

Vote 22-563: Hardman, Hudson, Loots ... 3 yes  
McKinney, Trevillyan ... 2 no

Motion carried.

It was moved by Loots, second by Hudson to adopt Resolution - Approval of Modification to Language of Comprehensive Plan Land Use Chapter and Place Type Sheets.

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Lynne Twedt, Development Services Director, explained that the proposed Resolution would clarify some of the language in the comprehensive plan, such as specifying the square footage guidelines are not a hard and fast rule because the comprehensive plan is not regulatory. The Resolution would also remove all references to the environmentally sensitive areas since the Council adopted an amendment to remove them from the land use map. She also noted there was language added to specify that industrial high and multi-use high should not be adjacent to single family residential.

Council member McKinney stated he believes these clarifications are a step in the right direction, but he noted he still has other concerns, which he has outlined previously.

Vote 22-564: Hardman, Hudson, Loots ... 3 yes  
McKinney, Trevillyan ... 2 no

Motion carried.

On Item 5(b) Comprehensive Plan Land Use Map Amendment - Approval of Comprehensive Land Use Map Designation, initiated by McKinney Property (Continued from September 13, 2022, October 17, 2022, and November 7, 2022)

Mayor Trimble stated the McKinney family and two neighboring landowners have met and discussed the 11 different land use maps that have been proposed. Those discussions identified two of the proposed maps as acceptable to all parties: Map E and Map K.

Joel Templeman, Lillis O'Malley Law Firm, 505 5<sup>th</sup> Avenue, Suite 1005, Des Moines, representing the McKinney family, stated he spoke with neighboring landowner Brian Martin earlier today and confirmed that he is agreeable to both Map E and Map K. He requested that tonight's discussion focus on those two maps, and he noted that between the two, the McKinney family prefers Map K, so they are requesting that the Council approve Map K.

Wayne McKinney, 11375 Booneville Road, explained that he had communicated with landowner Brian Martin via text message, and he had indicated he is agreeable to Map E and Map K, as he did not want multi-use high adjacent to his property, but he is okay with multi-use medium. He then presented the text message from Mr. Martin to the Mayor and Council. He stated his family's preference would be Map K, because they think the area south of Booneville Road would be a great location for multi-use high development.

Nick Williams, 34097 V Place, Waukee, expressed appreciation that this process gave him the opportunity to provide input, and he stated he considers both Map E and Map K acceptable.

Mayor Trimble noted that neither Map E nor Map K were supported by staff, because they felt there would be too much commercial in that area; however, he believes both maps would make sense, because Grand Avenue and Grand Prairie Parkway will both carry a lot of traffic. He expressed his preference for Map K because he believes it would make the most sense.

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Council member Loots stated he has a hard time imagining what could develop on a 55-acre parcel designated as multi-use high, as depicted on Map K.

Ms. Twedt stated it would more than likely develop as convenience stores or strip centers, but a big box store would also be allowed. She noted staff would have preferred a hybrid of Maps E and K, with a portion on the western side changed from multi-use medium to industrial low and the portion south of Booneville Road designated as multi-use medium. She stated the portion south of Booneville Road would be a good location for commercial given its proximity to the intersection of Grand Avenue and Grand Prairie Parkway.

It was moved by Trevillyan to adopt Resolution - Approval of Comprehensive Plan Land Use Map Designation, as depicted by Map K. Motion died for lack of second.

It was moved by Hudson, second by Loots to adopt Resolution - Approval of Comprehensive Plan Land Use Map Designation, as depicted by Map E.

Council member Hudson expressed support for Map E because he prefers that high intensity land uses be limited going forward; however, he noted there is always an option for the landowner to request a comprehensive plan amendment if a development opportunity should come forward that would require a different land use.

Council member Loots stated this has been one of the most difficult items he has had to consider in his first year on the council, and he stated he could support a comprehensive plan amendment in the future if the right development opportunity were to come forward.

Council member Hardman stated this has been one of the most difficult items she has had to consider during her council tenure as well. She noted there has been a lot of conversations about this, but it is time to make a decision. She expressed appreciation to her fellow council members and city staff for all the time and effort that went into this comprehensive plan update process.

Mayor Trimble stated he thinks this comprehensive plan could win awards, and he expressed appreciation to the landowners for taking the time to meet with each other and staff, because it allowed us to arrive at the best possible decision which all landowners consider agreeable.

Vote 22-565: Hardman, Hudson, Loots, Trevillyan ... 4 yes  
McKinney ... 1 abstain due to potential conflict of interest

Motion carried.

On Item 5(c) Iowa Clinic Urban Renewal Area - Terminate the Urban Renewal Area and Associated Development Agreement and Repeal Ordinance No. 2366, initiated by the City of West Des Moines

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

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Vote 22-566: Hardman, Hudson, Loots, McKinney, Trevillyan...5 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 22-567: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

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

Vote 22-568: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 6(a) Mayor Trimble indicated this was the time and place for a public hearing to consider Galleria, northwest corner of Mills Civic Parkway and South 60th Street - Amend the Signage Regulations with the Galleria Specific Plan Ordinance, initiated by The Whalen Family Limited Partnership and Horizon Galleria, LLC. He asked for the date the notice was published and the City Clerk indicated the notice was published on November 4, 2022 in the Des Moines Register. Mayor Trimble asked if any written comments had been received. The City Clerk stated on a vote of 5-0, with one member abstaining and one member absent, the Plan and Zoning Commission recommended City Council approval of the specific plan 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 Loots to consider the first reading of the ordinance.

Vote 22-569: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 22-570: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 6(b) Mayor Trimble indicated this was the time and place for a public hearing to consider Amendment to City Code - Title 9 (Zoning), Chapter 7 (Setback and Bulk Density

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Regulations) and Chapter 14 (Accessory Structures) - Modify Regulations Pertaining to Fences within Footprint Lots, initiated by Caliber Iowa, LLC. He asked for the date the notice was published and the City Clerk indicated the notice was published on November 4, 2022 in the Des Moines Register. Mayor Trimble 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 ordinance amendment.

Mayor Trimble asked if there were any public comments.

Drew Lindaman, Epcon Communities and Clarity Construction, 2873 104<sup>th</sup> Street, Urbandale, reported when the Courtyards at Kings Landing was developed, they were not aware that fences would not be allowed on footprint lots, but it was brought to their attention when a fence permit application was denied. He stated they are requesting this ordinance amendment to allow the residents of this development to construct fences on their footprint lots.

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

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

Council member McKinney stated this ordinance amendment was discussed at Development and Planning Subcommittee, and he supports it because it will allow for more different types of housing, and if a homeowners association wants to have more restrictive rules, they still could.

Vote 22-571: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 22-572: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 6(c) Mayor Trimble indicated this was the time and place for a public hearing to consider Not to Exceed \$5,200,000 Storm Water Revenue Capital Loan Notes, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on October 20, 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.

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

Vote 22-573: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 6(d) Mayor Trimble indicated this was the time and place for a public hearing to consider 8th Street Reconstruction, I-235 to Clegg 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 November 4, 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 McKinney to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Absolute Concrete Construction, Inc., Subject to Concurrence from the Iowa Department of Transportation.

Vote 22-574: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 6(e) Mayor Trimble indicated this was the time and place for a public hearing to consider 2022 Stormwater Intake 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 November 4, 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 Loots to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Reject All Bids.

Vote 22-575: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 6(f) Mayor Trimble indicated this was the time and place for a public hearing to consider 2022 Sewer Cleaning & Televising 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 November 4, 2022 in the Des Moines Register. Mayor Trimble asked if any written comments had been received. The City Clerk stated none had been received.



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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 Hydro-Klean, LLC.

Vote 22-576: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 7(a) South Branch Mini Storage, 4650 SE Army Post Road - Approval of Site Plan to Allow Mini Storage Buildings and Outdoor Storage Yard, initiated by SBBP JV21, LLC

It was moved by Trevillyan, second by McKinney 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 22-577: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 7(b) Plat of Survey Parcels 2021-46 and 2021-47, northeast corner of Grand Avenue and Fuller Road - Approval of Plat of Survey to Define Parcels on Each Side of Jordan Creek to Allow for Transfer of Ownership, initiated by Walnut Creek Community Church

It was moved by Loots, second by Hudson 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 22-578: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 7(c) Amendment to City Code - Title 4 (Health and Safety Regulations, Chapter 10 (Maintenance of Foreclosing Properties), Section 3 (Registration Requirements) - Change Which Department within the City Registers Foreclosure Properties, initiated by the City of West Des Moines

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

Vote 22-579: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 22-580: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

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

On Item 9 - Other Matters

Council member Trevillyan expressed concerns that the November 7, 2022 resolution adopting the Historic West Des Moines Master Plan Design Guidelines, with an amendment to remove the transitional zoning areas, may have left those transitional zoning areas without any protections from design guidelines.

The Council held discussion on the action that was taken on November 7<sup>th</sup> and determined the council action was not clear. Staff was directed to review the November 7<sup>th</sup> meeting to clarify the action taken by the Council and, if necessary, bring a clarifying resolution to the December 5<sup>th</sup> meeting for council consideration.

The meeting was adjourned at 7:11 p.m.

Respectfully submitted,

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Ryan T. Jacobson, CMC  
City Clerk

ATTEST:

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Russ Trimble, Mayor