

May 15, 2023

West Des Moines City Council Proceedings  
Monday, May 15, 2023

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, May 15, 2023 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 Hudson approve the agenda as presented.

Vote 23-175: 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:

Fire/EMS Chief Craig Leu introduced Firefighter Dominic Martinelli, who was then sworn in by Mayor Trimble.

No reports.

On Item 4. Consent Agenda.

Council members pulled Items 4(c)9, 4(k), 4(m)2, 4(n), and 4(u) for discussion. It was moved by Hudson, second by McKinney to approve the consent agenda as amended.

- a. Approval of Minutes of May 1, 2023 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
  1. Rocky's LLC d/b/a Allora Cafe, 4200 Mills Civic Parkway (Open Space across from Valley Stadium) - Eight-Month Special Class C Retail Alcohol License with Outdoor Service - New
  2. Aramark Services, Inc. d/b/a Aramark, 8025 Grand Avenue (Des Moines University) - Class C Retail Alcohol License with Catering Privileges - New
  3. Master of None, LLC d/b/a Barn Town Brewing, 9500 University Avenue, Suite 1110 - Class BB Beer Permit Extension of Outdoor Service - June 10, 2023
  4. Twenty2Twenty2 Investments, LLC d/b/a Charlie's Filling Station, 305 Grand Avenue - Class C Retail Alcohol License - New
  5. Orilla Chicken Company, Inc. d/b/a The Chicken, 4221 SE Orilla Road - Class C Retail Alcohol License with Outdoor Service - Renewal

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6. Bonsai Food Management, LLC d/b/a Dino's Bar & Grill, 5962 Ashworth Road - Class C Retail Alcohol License - Renewal
  7. Drury Development Corporation d/b/a Drury Inn & Suites, 5505 Mills Civic Parkway - Class C Retail Alcohol License - Renewal
  8. TAKO, LLC d/b/a Jenny Lee's Korean American Kitchen, 3701 EP True Parkway, Suite 400 - Special Class C Retail Alcohol License with Outdoor Service - Renewal
  10. Red Robin International, Inc. d/b/a Red Robin America's Gourmet Burgers & Spirits, 6255 Mills Civic Parkway - Class C Retail Alcohol License with Outdoor Service - Renewal
  11. Mega St. Kilda, LLC d/b/a St. Kilda Collective, 333 5<sup>th</sup> Street - Class C Retail Alcohol License with Catering Privileges - Renewal
  12. Pool IV TRS, LLC d/b/a Sheraton West Des Moines, 1800 50th Street - Class C Retail Alcohol License with Catering Privileges - Renewal
  13. Pike VII Management Inc. d/b/a Smashburger, 1821 22nd Street, Suite #106 - Special Class C Retail Alcohol License - New
  14. Texas Roadhouse Holdings, LLC d/b/a Texas Roadhouse, 6378 Mills Civic Parkway - Class C Retail Alcohol License with Catering Privileges - Renewal
  15. Whole Foods Market Group, Inc. d/b/a Whole Foods Market, 4100 University Avenue - Class E Retail Alcohol License - Renewal
  16. Your Private Bartender, LLC d/b/a Your Private Bar, 4000 Turnberry Drive - Five-Day Special Class C Retail Alcohol License for a Private Event on May 16, 2023
- d. Approval of Tobacco Permit
  - e. Approval of Special Event Lane Closure - 58<sup>th</sup> Street Block Party, June 3, 2023
  - f. Approval of Extended Sound Permit - 58<sup>th</sup> Street Block Party, June 3, 2023
  - g. Approval of Contract Agreements:
    1. Granular Deicer Product
    2. Portland Cement Concrete
  - h. Approval of Contract - MidAmerican Energy RecPlex Shades Punch List
  - i. Approval of Professional Services Agreements:
    1. Holiday Park Baseball Field, Phase 8 - Maintenance Area, Parking Lot and Entry Improvements
    2. School Crossing Guard Services
  - j. Approval of Change Orders:
    1. 2022 Parking Lot Repairs Program, #1
    2. Valley View Aquatic Center Toddler Slide and Three-Meter Diving Improvements, #2
  - l. Approval of 2023-24 FY Non-Union Pay Plan
  - m. Approval of 28E Agreements:
    1. Fire Protection and Emergency Medical Services - City of Clive
  - o. Approval of Professional Services Agreement - Stagecoach Drive, South 78<sup>th</sup> Street to South 81<sup>st</sup> Street

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- p. Accept Public Improvements - Stilwell Junior High School Public Storm Sewer Improvements
- q. Approval of Infrastructure Development Agreement - Jordan Ridge, LLC
- r. Approval of Amendment No. 1 to Development Agreement - LTR Pointe, LLC and Hans Leonard DDS, P.L.L.C.
- s. Approval of Agreement with Burch Auto Repair, LLC, 1021 Railroad Avenue
- t. Proclamations:
  - 1. Bike Month, May 2023
  - 2. Police Officers Week, May 9-20, 2023
  - 3. National Public Works Week, May 21-27, 2023
  - 4. Emergency Medical Services Week, May 21-27, 2023
  - 5. Kids to Parks Day, May 20, 2023

Vote 23-176: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 4(c)9 Approval of Liquor License - Kum & Go, L.C. d/b/a Kum & Go #98, 5760 Raccoon River Drive - Class E Retail Alcohol License - New

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

It was moved by Hard, second by Hudson to approve Item 4(c)9 Approval of Liquor License - Kum & Go, L.C. d/b/a Kum & Go #98, 5760 Raccoon River Drive - Class E Retail Alcohol License - New.

Vote 23-177: Hardman, Hudson, Loots, Trevillyan...4 yes  
McKinney...1 abstain due to potential conflict of interest  
Motion carried.

On Item 4(k) Approval of Amendment No. 1 to Professional Services Agreement - High Street Storm Sewer Improvements

Council member Trevillyan stated he does not believe there is a storm sewer issue in this area that would warrant these improvements, so he will not support this item. He also noted the council communication needs to be corrected to reflect a split recommendation from the Public Services Subcommittee.

It was moved by McKinney, second by Loots to approve Item 4(k) Approval of Amendment No. 1 to Professional Services Agreement - High Street Storm Sewer Improvements.

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Vote 23-178: Hardman, Hudson, Loots, McKinney ... 4 yes  
Trevillyan ... 1 no

Motion carried.

On Item 4(m)2 Approval of 28E Agreement - Animal Control Sheltering Services - AHeinz57 Pet Rescue and Transport, Inc.

Bret Hodne, Public Services Director, presented background information on the staff recommendation. He reported city staff has experienced a number of challenges with the current service provider, Furry Friends Refuge, so staff analyzed the available options and is recommending approval of a contract with AHeinz57 Pet Rescue and Transport, Inc. He noted this decision was based on an evaluation of the services offered to the community, the welfare of the animals, and public safety. Staff also determined it would be in the city's best interest to construct a temporary holding facility in the Public Services Facility, which will be managed by the Neighborhood Services Specialists. He noted the terms of the agreement with AHeinz57 are similar to the agreement with Furry Friends Refuge, however staff anticipates the overall cost to the city will decrease. He responded to questions from the Council, stating the main challenge with Furry Friends Refuge has been their contentious and confrontational relationship with city staff, which included the filing of a lawsuit against the city over a dispute regarding an animal deemed vicious by the city.

Jessie Wyborne, 4479 Meadow Valley Drive, inquired if there will be any veterinarian care available to injured animals while they are kept in the city's temporary holding facility. She expressed concerns that a four to seven day timeframe for animals in the temporary holding facility might not allow enough time for owners to pick up their pets. She also expressed concerns that AHeinz57 is located in De Soto, which she believes is a long distance for animals to be transported back and forth. She expressed concerns about the possibility of respiratory diseases being spread among animals contained in close proximity in the temporary holding facility.

Lori Teel, 5717 Aspen Drive, spoke in support of the work done by Furry Friends Refuge, and she stated she hopes the City and Furry Friends Refuge can resolve their differences and continue working together. She suggested the City establish a committee to work out the issues between the City and Furry Friends Refuge.

Nancy Boyd, 1351 South 51<sup>st</sup> Street, spoke in support of the work done by Furry Friends Refuge. She expressed concerns about the welfare of the animals, as she believes AHeinz57 does not do owner surrenders and it is merely a holding place until animals are euthanized. She suggested the City schedule community talks to seek to work out the issues between the City and Furry Friends Refuge.

Mayor Trimble explained that Furry Friends Refuge will continue to exist as an option for West Des Moines residents to surrender animals.

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Britt Gagne, Executive Director of Furry Friends Refuge, expressed concerns that there had been communication issues between her organization and city staff throughout the duration of their contract, including the city adopting a new vicious animal ordinance without notifying or consulting with her. She believes the ordinance is unlawful, so she has requested an appeal of that ordinance. She expressed concerns about the shortcomings she perceives with the city's animal control services. She expressed concerns that her organization was inadequately paid, despite doing the lion's share of the work. She suggested the City establish a citizen committee to discuss this matter before any decisions are made regarding animal welfare.

Randal Boyd, 1351 South 51<sup>st</sup> Street, inquired what the city has budgeted for veterinarian care for animals while they are kept in the city's temporary holding facility. He expressed concerns about the possibility of respiratory diseases being spread among animals contained in close proximity in the temporary holding facility. He inquired what the city plans to do with animals other than dogs or cats. He also inquired about the duties of the city's Neighborhood Services Specialists.

Jeff Bowlsby, 364 South 49<sup>th</sup> Street, expressed concerns that this change has been pushed through very quickly. He spoke in support of the work done by Furry Friends Refuge, and he believes everyone there cares deeply about the animals. He suggested the city contract with both AHeinz57 and Furry Friends Refuge, because he believes there will be a need for overflow capacity at times.

Samantha Hackett, 4318 Woodland Avenue, inquired how the city determines whether or not an animal has an owner. She suggested the differences between city staff and Furry Friends Refuge might have arisen from increased stress coming out of the COVID-19 pandemic. She suggested the City establish a citizen committee to discuss this matter before any decisions are made regarding animal welfare.

Linda Blake, 240 24<sup>th</sup> Street, expressed concerns about the Neighborhood Services Specialists not being able to scan for microchips, and she suggested they all be trained to do that. She suggested the services provided by Furry Friends Refuge should continue to be provided under the agreement with AHeinz57. She also expressed concerns about animals that are difficult to determine from their behavior whether or not they have an owner.

Shannon Rudolph, 1331 Crimson Street, spoke in support of the work done by Furry Friends Refuge. She expressed concerns about the need for emergency veterinarian care for injured animals that are brought into the city's temporary holding facility. She also expressed concerns about the possibility of respiratory diseases being spread among animals contained in close proximity in the temporary holding facility. She inquired how the animal capacity at AHeinz57 compares with Furry Friends Refuge. She also expressed concerns that AHeinz57 is located in De Soto, which she believes is too far outside West Des Moines. She also expressed concerns that West Des Moines citizens perceive Furry Friends Refuge as our city's shelter. She also inquired what the city plans to do with animals other than dogs or cats.

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Susan Anderson, 713 28<sup>th</sup> Street, suggested the City establish a citizen committee to discuss this matter before any decisions are made regarding animal welfare.

Bret Hodne, Public Services Director, responded to the questions asked by the citizens, stating AHeinz57 has agreed to provide on-call emergency medical services during business hours, and the city will utilize 24/7 emergency medical services through local animal hospitals. He noted Furry Friends Refuge has been cited during state inspections as recently as February 2023. He explained that animals will be held in the temporary holding facility up to seven days to try to find the owner, and if the owner has not come forward in that timeframe, the animal will then be transferred to AHeinz57. He stated the cost to construct the temporary holding facility will be approximately \$60,000, which is less than the \$95,000 annual increase requested by Furry Friends Refuge. He explained the Neighborhood Services Specialists have other duties in their job description in addition to the animal control responsibilities, such as code enforcement.

Gary Rank, Superintendent of Public Services, reported the temporary holding facility will include an isolation room to keep animals separated if needed. He noted it will have the capacity for either ten dogs or twelve cats. He also reported the city has contacts with other parties that can assist in handling animals other than dogs and cats. He noted two of the four Neighborhood Services Specialists are trained to scan for microchips, and staff intends to train the other two if this agreement with AHeinz57 is approved.

Mr. Hodne reported AHeinz57 is a large facility, and city staff has been guaranteed they will have sufficient capacity for the city's needs.

Alexandra Schwarz, Neighborhood Services Specialist, reported staff uses several methods to determine whether an animal has an owner, such as identification from a collar or microchip, whether the animal has been groomed, the animal's behavior towards people, and the location where the animal was found. She noted staff always errs on the side of caution, and if there is any doubt, staff assumes an animal has an owner. She also reported the main issue for staff scanning for microchips is ensuring their safety and the containment of the animal, but having reliable access to the temporary holding facility will provide a safe and secure place for scanning microchips, which is expected to increase the success rate for scanning microchips. She also responded to questions from the Council, stating that AHeinz57 has volunteers that will handle the transporting of animals back and forth between the city and their facility in De Soto.

Council member Hudson expressed concerns about the incorrect information that has been spread regarding this matter, as he has had several of his high school students discuss this with him who had clearly been misinformed. He stated we are all welcome to disagree on this matter, but we should ensure we all have the correct information.

Council member Hardman stated we need to allow city staff to evaluate our service agreements when they are about to expire and make recommendations such as this. She spoke in support of the work done by Furry Friends Refuge, and she stated the City not renewing this agreement

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does not prevent them from carrying on their mission. She noted this decision is being made based on what is in the best interest of the city and its needs related to animal sheltering services.

Council member Trevillyan reported in 2010, the City needed a new solution for animal sheltering services and Furry Friends Refuge stepped forward and fulfilled that need. He expressed appreciation to them for doing that. However, he stated we are now in need of a new solution again, and this time it means the City needs to go with a different service provider in AHeinz57. He noted this will not mean the end of Furry Friends Refuge, as they will continue to offer their services to the community.

Mayor Trimble stated he is proud to have Furry Friends Refuge in our community, and he is proud of the relationship the City has had with them for the past 10-plus years. However, the City has an obligation to public safety, and he expressed concerns that it's been reported a vicious animal kept at Furry Friends Refuge has attacked several of their employees and volunteers. He stated the facilities operated by Furry Friends Refuge failed to pass state inspections multiple times. He noted he believes that Furry Friends Refuge truly cares about animals, but there are irreconcilable differences between their organization and the City. He noted Furry Friends Refuge will continue to offer its services to the community, and he encouraged the citizens to continue to support the organization.

It was moved by Trevillyan, second by Loots to approve Item 4(m)2 Approval of 28E Agreement - Animal Control Sheltering Services - AHeinz57 Pet Rescue and Transport, Inc.

Vote 23-179: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 4(n) Order Construction - High Street Storm Sewer Improvements

Council member Trevillyan stated he does not believe there is a storm sewer issue in this area that would warrant these improvements, so he will not support this item. He also noted the council communication needs to be corrected to reflect a split recommendation from the Public Services Subcommittee.

It was moved by Hudson, second by Loots to approve Item 4(n) Order Construction - High Street Storm Sewer Improvements.

Vote 23-180: Hardman, Hudson, Loots, McKinney ... 4 yes  
Trevillyan ... 1 no  
Motion carried.

On Item 4(u) Approval of Application for Federal Highway Administration Charging and Fueling Infrastructure Discretionary Grant Program

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Council member Trevillyan stated he does not support tax dollars being allocated to constructing these facilities.

It was moved by McKinney, second by Hudson to approve Item 4(u) Approval of Application for Federal Highway Administration Charging and Fueling Infrastructure Discretionary Grant Program.

Council member McKinney stated this was discussed at Public Services Subcommittee, and his understanding is this is an opportunity to obtain federal dollars and then collaborate with the private market as appropriate going forward.

Ben McAlister, Principal Engineer, confirmed that Council member McKinney's understanding is correct. This grant program does not require the City to be the provider. He stated it is not yet determined whether a proposed facility would be publicly owned, publicly operated, or publicly maintained, but if the grant is awarded, then staff would proceed down the path of developing a project and figuring out which parties would be involved and what their involvement would be.

Council member Loots stated he doesn't consider charging stations a part of public infrastructure, and he would prefer to see them handled by the private market.

Vote 23-181: Hardman, Hudson, McKinney ... 3 yes  
Loots, Trevillyan ... 2 no

Motion carried.

Mayor Trimble declared a recess at 7:20 p.m. and reconvened the meeting at 7:30 p.m.

On Item 5(a) Army National Guard Readiness Center, 1625 SE County Line Road - Amend the Zoning Map to Establish General Industrial Zoning, initiated by the City of West Des Moines

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

Vote 23-182: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 23-183: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

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

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Vote 23-184: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 5(b) Fareway Right-of-Way Vacation, 9040 Mills Civic Parkway - Vacate a Portion of Right-of-Way Along the South Side of Mills Civic Parkway, initiated by Fareway Stores, Inc.

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

Vote 23-185: 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 23-186: 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 23-187: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 5(c) Amendment to City Code - Title 3 (Business and Licensing), Title 7 (Public Ways and Property), and Title 9 (Zoning) - Modify Regulations, Terminology and Definitions Pertaining to Alcohol Service and Consumption Allowance Aspects within Establishments, initiated by the City of West Des Moines

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

Vote 23-188: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 23-189: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

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

Vote 23-190: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 5(d) Issuance of \$13,170,000 General Obligation Bonds, Series 2023A, initiated by the City of West Des Moines

It was moved by Trevillyan, second by McKinney to adopt Resolution - Approval of Paying Agent, Bond Registrar, and Transfer Agent Agreement and Resolution - Authorizing the Issuance of Bonds and Amending the Levy of Taxes to Pay Said Bonds; Approval of the Tax Exemption Certificate and Continuing Disclosure Certificate.

Vote 23-191: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 5(e) Issuance of \$17,200,000 Taxable General Obligation Urban Renewal Bonds, Series 2023B, initiated by the City of West Des Moines

It was moved by Hardman, second by Hudson to adopt Resolution - Approval of Paying Agent, Bond Registrar, and Transfer Agent Agreement and Resolution - Authorizing the Issuance of Bonds and Amending the Levy of Taxes to Pay Said Bonds; Approval of the Continuing Disclosure Certificate.

Vote 23-192: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 5(f) Issuance of \$20,330,000 General Obligation Urban Renewal Bonds, Series 2023C, initiated by the City of West Des Moines

It was moved by Hudson, second by Trevillyan to adopt Resolution - Approval of Paying Agent, Bond Registrar, and Transfer Agent Agreement and Resolution - Authorizing the Issuance of Bonds and Amending the Levy of Taxes to Pay Said Bonds; Approval of the Tax Exemption Certificate and Continuing Disclosure Certificate.

Vote 23-193: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 5(g) Issuance of \$4,625,000 Taxable General Obligation Urban Renewal Bonds, Series 2023D, initiated by the City of West Des Moines

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It was moved by Hudson, second by Loots to adopt Resolution - Approval of Paying Agent, Bond Registrar, and Transfer Agent Agreement and Resolution - Authorizing the Issuance of Bonds and Amending the Levy of Taxes to Pay Said Bonds; Approval of the Continuing Disclosure Certificate.

Vote 23-194: 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 Amendment to City Code - Title 9 (Zoning), Chapter 2 (Zoning Rules and Definitions), Chapter 7 (Setback and Bulk Density Regulations), and Chapter 14 (Accessory Structures) - Modify Regulations Pertaining to Building Separation for Accessory Structures in Single Family Zoning Districts, 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 April 28, 2023 in the Des Moines Register. Mayor Trimble asked if any written comments had been received. The City Clerk stated on a vote of 7-0, 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 Trevillyan, second by Loots to consider the first reading of the ordinance.

Vote 23-195: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 23-196: 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 Mills Civic Parkway Right-of-Way Adjoining Lot 2 of Fareway Development Plat 1 (9040 Mills Civic Parkway) - Conveyance of Property Interests to Fareway Stores, Inc. and Reservation of Permanent Easements, 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 May 10, 2023 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 Hudson, second by Loots to adopt Resolution - Approval of Conveyance of Property Interests and Reservation of Permanent Easements.

Vote 23-197: 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 2022-23 FY Operating and Capital Budget - Amendment #3, 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 April 28, 2023 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 Loots, second by Trevillyan to adopt Resolution - Approval of Budget Amendment #3.

Vote 23-198: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 7(a) High Gate Plat 1, northeast of the intersection of South 88th Street and Stagecoach Drive - Approval of Preliminary Plat to Create Two Outlots for Future Development and One Street Lot, initiated by Sunset Co., L.C.

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

Vote 23-199: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 7(b) Woodland Estates Plat 2, 9510 and 9520 Mills Civic Parkway - Approval of Preliminary Plat to Create 37 Lots for Single-Family Residential Development, One Outlot, and One Street Lot, initiated by Silo 9 Plat 1, LLC

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

Vote 23-200: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

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On Item 7(c) The Pines at Glen Oaks, southwest quadrant of I-35 and Mills Civic Parkway Interchange - Approval of Site Plan for 33 Dwelling Units for Multi-Family Residential Development, initiated by Paramount-Destination Homes, Inc.

It was moved by Hudson, 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.

Robert Brown, 903 Tulip Tree Lane, expressed concerns that this development was approved by the homeowners' association with no input from the residents.

Mayor Trimble noted the developer has followed the process and obtained all the necessary approvals from the City, so Mr. Brown's concerns would need to be addressed with the homeowners' association.

Tom Polking, 1243 Glen Oaks Drive, expressed concerns that the developer had promised to meet with the residents regarding this development project but has not done that. He also expressed concerns that there are no homeowners' association meeting minutes available since November, so he questions the validity of any approvals they may have granted for this development project. He also expressed concerns that this proposed development would increase the density and traffic within the Glen Oaks community.

Lynne Twedt, Development Services Director, noted there are, included with the council communication, correspondences from a representative of the homeowners' association verifying the development project had received approval from the association.

Council member Trevillyan expressed concerns that an email from one person does not adequately verify that the development project had received proper approval from the homeowners' association.

Robert Burns, 844 Glen Oaks Terrace, expressed concerns that he believes the developer had not submitted detailed plans to the architectural review board as required. He also expressed concerns that the architectural design of these residential structures with rooftop patios does not comply with the architectural review standards, which require pitched roofs. He also expressed concerns that the proposed development would not match the character of the neighborhood, as it would have a much higher density, a smaller front yard setback, and a different roof design than the rest of the Glen Oaks community. He requested that the City Council defer on this item.

Mayor Trimble reiterated that the residents' concerns should be addressed with the homeowners' association.

Jamie Myers, Paramount-Destination Homes, stated this project began nearly three years ago, and he has worked with the homeowners' association throughout the process and earned all the

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necessary approvals from the association. He also stated the architectural review board did review a full set of detailed plans, and they requested the addition of one window on each building and some additional trees on the site. He noted he has followed every legal requirement and provided all the required notices throughout the process.

The Mayor and Council held discussion on whether the City should have any role in validating the internal approval processes for a homeowners' association or signatures made on behalf of the association, and a majority of the Council felt that doing so would be outside the scope of the City Council.

Mayor Trimble suggested the residents call a meeting of the Glen Oaks homeowners' association to address the matter.

Ms. Twedt responded to a question from Mayor Trimble, stating she is unaware of any City or zoning requirement that has not been fulfilled by Paramount-Destination Homes.

Ed Pelds, Pelds Design Services, stated this development was reviewed by the Development and Planning Subcommittee over a year ago with representatives of the Glen Oaks homeowners' association present at the meeting, so he believes the opportunity to raise concerns regarding an improper vote or improper signature would have been at that earlier stage in the process.

Council member McKinney inquired if there would be any legal basis for the Council to deny this site plan.

City Attorney Dick Scieszinski responded if the Council could articulate a reason why they believe there is a material misrepresentation in this application, then they would have the right to deny this site plan. However, he stated it appears the applicant has met all the requirements from the City's perspective.

Council member McKinney noted the proposed Resolution includes a condition of approval requiring a signature from the Glen Oaks homeowners' association, so even if the Council approves the site plan tonight, it would still be up to the association whether or not this development project can move forward.

Ms. Twedt responded to questions from the Council, stating the PUD ordinance requires that the architecture of buildings within this parcel be compatible with the adjoining residential uses in the neighborhood. With subjective criteria such as this, staff relies on the homeowners' association to determine whether they would consider an architectural design to be compatible with the neighborhood.

Mayor Trimble stated the City must judge development applications based on the criteria set by City Code and trust that signatures from a homeowners' association president are valid. He reiterated that the residents' concerns should be addressed with the homeowners' association.

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Vote 23-201: Hardman, Hudson, Loots, McKinney ... 4 yes  
Trevillyan ... 1 no

Motion carried.

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

On Item 9 - Other Matters: none

The meeting was adjourned at 8:59 p.m.

Respectfully submitted,

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Ryan T. Jacobson, CMC  
City Clerk

ATTEST:

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Russ Trimble, Mayor