

November 20, 2023

West Des Moines City Council Proceedings
Monday, November 20, 2023

Mayor Pro tem Matthew McKinney 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 20, 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 Loots approve the agenda as presented.

Vote 23-444: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 2. Public Forum:

Vicki Long-Hill, 136 10th Street, congratulated the City for recently being awarded the 2023 Inclusion Award at the Greater Des Moines Partnership's 11th Annual Inclusion Summit, and she commended DEI Director Audrey Kennis for her efforts and leadership.

David Abbot, 305 41st Street, requested a ban on speed cameras in the city, as he believes they can be a detriment to morale in the community.

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

Council member Hardman reported it was a proud moment for the City to be recognized with the 2023 Inclusion Award by the Greater Des Moines Partnership, and she expressed appreciation to City Manager Tom Hadden and DEI Director Audrey Kennis for their efforts and leadership. She reported the Historic Valley Junction is hosting a new fun run event called "Running of the Reindeer" which will be held on Saturday, November 25th.

Council member Hudson noted election day was on November 7th, and he thanked the voters for making their voices heard. He also expressed appreciation to the voters of Ward 2 for reelecting him to another four-year term on the City Council.

Council member Hardman congratulated Council members Hudson and McKinney for winning reelection to their respective seats on the City Council.

On Item 4. Consent Agenda.

Council members pulled Items 4(c)4 and 4(m) for discussion. It was moved by Hardman, second by Loots to approve the consent agenda as amended.

November 20, 2023

- a. Approval of Minutes of November 6, 2023 and November 15, 2023 Meetings
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 - 1. Aldi, Inc. d/b/a Aldi #40, 6050 Mills Civic Parkway - Class B Retail Alcohol License - New
 - 2. Evergreen Properties Investment, LLC d/b/a Circle K, 3501 EP True Parkway - Class E Retail Alcohol License - Renewal
 - 3. Concert Glen Oaks, LLC d/b/a Glen Oaks Country Club, 1401 Glen Oaks Drive - Class C Retail Alcohol License with Outdoor Service and Catering Privileges - Renewal
- d. Approval of Order for Violation of Alcohol Laws
- e. Approval of Reappointments
 - 1. Human Rights Commission
 - 2. Parks and Recreation Advisory Board
- f. Approval of Renewal Contract Agreement - HVAC Repair Services
- g. Approval of Public Services Snow and Ice Control Policy
- h. Approval of Contracts:
 - 1. Holiday Aquatic Filter Media Replacement
 - 2. Valley View Aquatic Filter Media Replacement
- i. Approval of Change Order #5 - Walnut Creek Floodgates Repair
- j. Approval of Amendment No. 1 to Professional Services Agreement - EP True Parkway, Wendover Lane to South Grand Prairie Parkway
- k. Approval of 2022-23 FY Tax Increment Financing Report
- l. Order Construction - MidAmerican Energy RecPlex Operational Improvements - Electrical/Mechanical
- n. Accept Work:
 - 1. Raccoon River Park Playground Replacement
 - 2. SE County Line Road, Veterans Parkway to SE Orilla Road
 - 3. SE County Line Road, Veterans Parkway to SE Soteria Avenue
 - 4. South 51st Street, Mills Civic Parkway to Fieldstone Drive
 - 5. South Service Area Segment 3 Sewer
 - 6. Valley Junction Business District Pavers and Sidewalk, Phase 2
- o. Approval and Acceptance of Ingress/Egress Access Easement - Highgate Development

Vote 23-445: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 4(c)4 Approval of Liquor License - Kum & Go, L.C., d/b/a Kum & Go Store #3035, 7265 Vista Drive - Class E Retail Alcohol License - Renewal

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

November 20, 2023

It was moved by Loots, second by Hudson to approve Item 4(c)4 Approval of Liquor License - Kum & Go, L.C., d/b/a Kum & Go Store #3035, 7265 Vista Drive - Class E Retail Alcohol License - Renewal.

Vote 23-446: Hardman, Hudson, Loots, Trevillyan...4 yes
McKinney ... 1 abstain due to potential conflict of interest
Motion carried.

On Item 4(m) Award Contract - 329 6th Street Demolition

Council member Trevillyan stated he will not support this item.

It was moved by Hudson, second by Loots to approve Item 4(m) Award Contract - 329 6th Street Demolition.

Vote 23-447: Hardman, Hudson, Loots...3 yes
McKinney, Trevillyan ... 2 no
Motion carried.

On Item 5(a) Amendment to City Code - Title 9 (Zoning), Chapter 6 (Commercial, Office and Industrial Zoning District) - Modify Land Uses Permitted in the Community Commercial (CMC) Zoning District, initiated by the City of West Des Moines

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

Vote 23-448: 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 second reading of the ordinance.

Vote 23-449: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

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

Vote 23-450: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

November 20, 2023

On Item 5(b) Amendment to City Code - Title 6 (Motor Vehicles and Traffic), Chapter 9 (Traffic Schedules), Section 3 (Special Stops Required) - South 33rd Street and Glenwood Drive, initiated by the City of West Des Moines

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

Vote 23-451: 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 Trevillyan to approve the second reading of the ordinance.

Vote 23-452: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

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

Vote 23-453: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 5(c) Amendment to City Code - Title 9 (Zoning), Chapter 5 (Agricultural/Open Space and Residential Zoning District) and Chapter 6 (Commercial, Office, and Industrial Zoning District) - Modify Regulations Pertaining to Uses Permitted in the Open Space Zoning District, initiated by the City of West Des Moines (Continued from October 16, 2023)

It was moved by Trevillyan, second by Loots to adopt Motion - Continue item 5(c) to December 4, 2023.

Vote 23-454: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 6(a) Mayor Pro tem McKinney indicated this was the time and place for a public hearing to consider Amendment to City Code - Title 9 (Zoning) and Title 10 (Subdivision Regulations) - Modify and Establish Requirements and Regulations for Pedestrian Pathways along Private Streets and Vehicle Drive Aisles, initiated by the City of West Des Moines (Continued from October 16, 2023). He asked for the date the notice was published and the City Clerk indicated the notice was published on September 29, 2023 in the Des Moines Register. Mayor Pro tem McKinney asked if any written comments had been received. The City Clerk stated on a vote of 4-2, with one member absent, the Plan and Zoning Commission recommended City Council approval of the ordinance amendment.

November 20, 2023

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

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

Vote 23-455: 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 Hardman to approve the first reading of the ordinance.

Vote 23-456: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 6(b) Mayor Pro tem McKinney indicated this was the time and place for a public hearing to consider Amendment to City Code - Title 9 (Zoning) - Modify Sign Code Regulations Related to Letter, Graphic or Logo Size, initiated by the City of West Des Moines (Continued from October 16, 2023). He asked for the date the notice was published and the City Clerk indicated the notice was published on September 27, 2023 in the Des Moines Register. Mayor Pro tem McKinney 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 Pro tem McKinney asked if there were any public comments; hearing none he declared the public hearing closed.

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

Vote 23-457: 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 Trevillyan to approve the first reading of the ordinance.

Vote 23-458: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 6(c) Mayor Pro tem McKinney indicated this was the time and place for a public hearing to consider Ruthenium, southwest corner of Veterans Parkway and SW 60th Street - Amend the Zoning Map to Establish Light Industrial Zoning, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice

November 20, 2023

was published on November 3, 2023 in the Des Moines Register. Mayor Pro tem McKinney asked if any written comments had been received. The City Clerk stated on a vote of 4-2, with one member absent, the Plan and Zoning Commission recommended City Council approval of the rezoning request, and one written correspondence was received, which was included with the council communication.

Mayor Pro tem McKinney asked if there were any public comments.

Paul Englis, Microsoft, reported that Project Ruthenium is a data center project and Microsoft is the proposed developer for that project. He stated Microsoft anticipates closing on the property within the next couple weeks and then commencing the site plan process soon after that, which will include opportunities for public input. He acknowledged Microsoft is aware of city requirements on this parcel for screening and lighting considerations, and they are working to incorporate that into their plans for the project.

Carol Reichhardt, 1776 NW 130th, Clive, stated she is one of the co-owners of Sargent Farms, which owns the property to the south of this proposed development. She stated the Sargent Farms property is currently used for farming, recreation, meetings, and education, but the owners' long-term plan is to develop the property as residential. She expressed opposition to the proposed data center development project, as she believes it could be a detriment to the current and future uses for the Sargent Farms property and could negatively impact the value of the property. She also stated she believes the character of the entire area should not be changed for the benefit of one user. She requested the City pause the rezoning until the proposed site plan has been fully disclosed to the public, and she requested that the surrounding property owners be included in any discussions throughout the site plan process.

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

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

Council member Loots requested that staff include the surrounding property owners in all discussions throughout the site plan process.

Council member Hardman inquired how Ms. Reichardt has determined the devaluation of the Sargent Farms property as a result of this proposed data center development.

Ms. Reichardt stated she believes the property will be devalued aesthetically and in how it can be used. She stated they have not conducted a thorough evaluation on the financial impact, since the data center use was just revealed to the public earlier today, but she predicts the proposed use would have a negative financial impact on the property.

November 20, 2023

Lynne Twedt, Development Services Director, noted this action tonight is a consistency zoning for property that is currently unzoned, and it would apply the zoning to the property that is consistent with the comprehensive plan land use.

Mr. Englis stated Microsoft would be happy to talk with the surrounding property owners about the design of the development throughout the site plan process.

Vote 23-459: 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 Trevillyan to approve the first reading of the ordinance.

Vote 23-460: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 6(d) Mayor Pro tem McKinney indicated this was the time and place for a public hearing to consider Amendment #6 to the Ashworth Corridor Urban Renewal Area, 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 10, 2023 in the Des Moines Register. Mayor Pro tem McKinney asked if any written comments had been received. The City Clerk stated none had been received.

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

It was moved by Hudson, second by Hardman to adopt Resolution - Approval of Urban Renewal Plan Amendment.

Vote 23-461: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 6(e) Mayor Pro tem McKinney indicated this was the time and place for a public hearing to consider Lease of City-Owned Property at 217 5th Street, Suite 102, initiated by the City of West Des Moines (Continued from October 16, 2023 and November 6, 2023). He asked for the date the notice was published and the City Clerk indicated the notice was published on October 6, 2023 in the Des Moines Register. Mayor Pro tem McKinney asked if any written comments had been received. The City Clerk stated none had been received.

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

November 20, 2023

It was moved by Loots, second by Trevillyan to adopt Motion - Approval of Lease Agreement.

Vote 23-462: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 6(f) Mayor Pro tem McKinney indicated this was the time and place for a public hearing to consider Issuance of Not to Exceed \$7,500,000 General Obligation 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 November 10, 2023 in the Des Moines Register. Mayor Pro tem McKinney asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Pro tem McKinney 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 - Instituting Proceedings to Take Additional Action, and Resolution - Ratifying, Confirming, Approving and Authorizing a Loan Agreement, and Authorizing and Providing for the Tax Levy to Pay the Loan Agreement

Vote 23-463: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 7(a) Amendment #9 to the Amended and Restated Mills Parkway Urban Renewal Area - Approval of Amended TIF Ordinance, 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 23-464: 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 23-465: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

It was moved by Hudson, second by Loots in accordance with Rule 36 of the City Council Procedural Rules to waive the second and third readings of the ordinance.

Vote 23-466: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

November 20, 2023

It was moved by Hudson, second by Loots to adopt the ordinance in final form.

Vote 23-467: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 7(b) Amendment #1 to the University Avenue Corridor Urban Renewal Area - Approval of Amended TIF Ordinance, 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 23-468: 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 23-469: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

It was moved by Hudson, second by Loots in accordance with Rule 36 of the City Council Procedural Rules to waive the second and third readings of the ordinance.

Vote 23-470: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

It was moved by Hudson, second by Loots to adopt the ordinance in final form.

Vote 23-471: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

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

On Item 9 - Other Matters: none

The regular meeting was adjourned at 6:23 p.m.

It was moved by Hudson, second by Trevillyan to go into Executive Session per Chapter 21 of the Iowa Code, to discuss Pending/Threatened Litigation.

Vote 23-472: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

November 20, 2023

Entered Executive Session at 6:34 p.m. with the following persons present in the Board Room of City Hall: Council members Hardman, Hudson, Loots, McKinney, and Trevillyan; City Manager, Assistant City Attorney, City Clerk, City Engineer, Principal Engineer, and retained legal counsel Jeff Stone of Simmons Perrine Moyer Bergman PLC (via teleconference).

Council member Loots left the executive session at 6:42 p.m.

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

Vote 23-473: Hardman, Hudson, McKinney, Trevillyan...4 yes
Motion carried.

Executive Session was adjourned at 7:04 p.m.

Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Matthew McKinney, Mayor Pro tem