

September 16, 2024

West Des Moines City Council Proceedings  
Monday, September 16, 2024

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 16, 2024 at 5:30 PM. Council members present were: G. Hudson, D. Loots, M. McKinney, and K. Trevillyan.

City Clerk Ryan Jacobson stated staff recommends the agenda be amended to remove Item 5(b) Ashworth Road Design Criteria, which staff intends to bring back for Council consideration at a future meeting.

Council member Trevillyan requested that staff provide notification of that Council meeting date to everyone that had received notification of the September 10<sup>th</sup> public meeting regarding Ashworth Road.

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

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

Vote 24-365: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 2. Public Forum:

Jeannine Ritchie, Dallas County Attorney, reported there will be a bond referendum on the November 5<sup>th</sup> election ballot for Dallas County voters to fund the construction of a proposed criminal court building, which is needed because the county has outgrown the Dallas County Courthouse. She stated the proposed new criminal court building would be located on U.S. Highway 6 on the east side of Adel, and it would serve as a second facility in addition to the Dallas County Courthouse, which would remain in operation.

Tom Stull, 3530 Commerce Drive, expressed concerns about Item 4(n)3 Professional Services Agreement - Raccoon River Bridges Feasibility Study, and he suggested that the study should exclude areas east of I-35. He noted there have been discussions in previous years about a potential bridge across the Raccoon River in that area, but there were significant environmental concerns with a bridge being constructed there.

Reike Plecas, 1001 7<sup>th</sup> Street, stated he was disappointed that the building at 122 5<sup>th</sup> Street was demolished. He expressed support for economic development projects in the Valley Junction Business District, but he requested that the Council ensure any future development projects in

that area would honor its history.

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

Council member Trevillyan reported he attended the grand opening of TopGolf, which was well attended, and he stated it is a great facility for providing entertainment to our city's residents and visitors.

Council member Hardman congratulated TopGolf for their ribbon cutting ceremony. She also reported she attended a ribbon cutting ceremony for Des Moines University, which was the most well attended ribbon cutting ceremony she has ever attended. She also attended the Diversity Equity and Inclusion Workplace Excellence Awards ceremony, hosted by the West Des Moines Chamber of Commerce, and she congratulated the West Des Moines Human Rights Commission for receiving the DEI Award in Government. She also reported she attended Illumifest, and she commended the Parks and Recreation department for coordinating a successful event.

Council member McKinney congratulated TopGolf and Des Moines University for their ribbon cutting ceremonies. He expressed appreciation to Mayor Trimble for his leadership as chair of the Des Moines Area Regional Transit Authority, as the organization navigates through financial challenges and the withdrawal of two member cities. He also expressed his desire for the City to enforce the design guidelines for the Valley Junction Business District to ensure any new development project would honor the history of that area.

Council member Hudson congratulated TopGolf and Des Moines University for their ribbon cutting ceremonies, and he commended the Parks and Recreation department for coordinating Illumifest. He reported he attended a meeting of the Greater Des Moines Convention and Visitors Bureau Executive Board, and he expressed support for partnerships like these among metro cities because we are stronger together. He also reported that Election Day will be on Tuesday, November 5<sup>th</sup>, and he encouraged everyone who is eligible to get themselves registered to vote.

Mayor Trimble thanked Mayor Pro tem Trevillyan for filling in for him while he was travelling out of state. He reported the Des Moines Area Regional Transit Authority Board is exploring paths forward to continue providing public transit as efficiently as possible for those who need that service.

On Item 4. Consent Agenda.

Council members pulled Items 4(c)7, 4(c)8, 4(f), 4(n)3, and 4(r) for discussion. It was moved by Hudson, second by Loots to approve the consent agenda as amended.

- a. Approval of Minutes of September 3, 2024 Meeting
- b. Approval of Bill Lists

- c. Approval of Liquor Licenses:
  - 1. Apple Corps, L.P., d/b/a Applebee's Neighborhood Grill & Bar, 6190 Mills Civic Parkway - Class C Retail Alcohol License - Renewal
  - 2. Thawee Wathana, LLC d/b/a Banana Leaf Asian Bistro, 5515 Mills Civic Parkway, Suite 140 - Special Class C Retail Alcohol License - Renewal
  - 3. TenX Adventures 2, LLC d/b/a The Hall, 111 South 11th Street - Class C Retail Alcohol License with Outdoor Service and Catering Privileges - Renewal
  - 4. Envision Homes, LLC d/b/a Heart of Iowa Marketplace, 211 5th Street - Special Class B Retail Native Wine License - Renewal
  - 5. Kineth Hospitality Company, Inc. d/b/a Holiday Inn Express & Suites, 240 Jordan Creek Parkway - Class C Retail Alcohol License - Renewal
  - 6. Ingersoll Liquor & Beverage Co., d/b/a Ingersoll Wine Merchants, 1300 50<sup>th</sup> Street, Suite 200 - Class E Retail Alcohol License - Renewal
  - 9. 52 Gracedieu DBA Memory Lane Antiques, LLC d/b/a Memory Lane Antiques Collectibles & Gifts, 208 5th Street - Class B Native Wine Permit with Sunday Sales - Renewal
  - 10. Tallgrass Theatre Company d/b/a Tallgrass Theatre Company, 2019 Grand Avenue, Suite 100 - Special Class C Retail Alcohol License - Renewal
  - 11. InterMountain Management, LLC d/b/a TownePlace Suites, 125 South 68th Street - Class C Retail Alcohol License - Renewal
  - 12. Pint of No Return, LLC d/b/a Tuddy's Tavern, 6240 Mills Civic Parkway - Class C Retail Alcohol License with Outdoor Service - Renewal
  - 13. Your Private Bartender, LLC d/b/a Your Private Bar, 1701 25th Street (Events Center West) - Class C Retail Alcohol License with Catering Privileges - Renewal
- d. Approval of Order for Violation of Alcohol Laws
- e. Approval to Sell Surplus City Equipment
- g. Approval of Change Order #5 - Raccoon River Pedestrian Bridge at Raccoon River Park
- h. Approval of Amendment No. 1 to Professional Services Agreement - Fire Administration Building Exterior Improvements
- i. Approval of Amendments to Construction Contracts:
  - 1. 2023 Parking Lot Repair Program
  - 2. 2024 PCC Patching Program
- j. Approval of Interfund Transfers
- k. Order Construction - 2024 Parking Lot Repair Program, Phase 2
- l. Award Contract - On-Call Fiber Optic Conduit Network Repair and Maintenance Services
- m. Accept Work:
  - 1. Digital Enterprise Last Mile Conduit Deployment Segment 5, Phase 3
  - 2. MidAmerican Energy RecPlex Operational Improvements - Electrical/Mechanical
- n. Approval of Professional Services Agreements:
  - 1. City Hall Flat Roof Replacement
  - 2. City Hall Generator Replacement
  - 4. Walnut Creek Stormwater Pump Station Controls Replacement

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- o. Approval of Termination of Existing 28E Agreement for the Metro Home Improvement Program and Approval of New 28E Agreement for the Metro Home Improvement Program to Include the Mid-Iowa Planning Alliance
- p. Approval of Extension of Entitlement - The Pines at Glen Oaks
- q. Approval and Acceptance of Property Interests - Mills Civic Parkway Reconstruction, South 91<sup>st</sup> Street to South Grand Prairie Parkway
- s. Approval of Settlement and Mutual Release Agreement - RLM Underground, LLC
- t. Proclamation - Latino Heritage Month, September 15 - October 15, 2024

Vote 24-366: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 4(c) Approval of Liquor Licenses:

- 7. Kum & Go, LC, d/b/a Kum & Go #532, 5901 Mills Civic Parkway, Building 2000 - Class E Retail Alcohol License - Renewal
- 8. Kum & Go, L.C. d/b/a Kum & Go #1074, 330 Jordan Creek Parkway - Class E Retail Alcohol License - Renewal

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

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

Vote 24-367: Hardman, Hudson, Loots, Trevillyan...4 yes  
McKinney ... 1 abstain due to potential conflict of interest  
Motion carried.

On Item 4(f) Approval of Conflict Waiver with Ahlers & Cooney, P.C. Regarding Waukee Community School District

Council member Loots expressed concerns that the proposed conflict waiver prepared by Ahlers & Cooney states "...our firm's representation of the District on the matter will be directly adverse to City because they are concurrent representations." He inquired why staff is recommending approval of this conflict waiver and not seeking different counsel on this matter.

Jessica Grove, Deputy City Attorney, responded that Ahlers & Cooney would prepare the documents related to the urban renewal area for this development, but the City's attorneys on staff would prepare the documents related to the development agreement. She noted the Waukee School District will be signing a similar conflict waiver. She also noted the attorneys working with the City on the urban renewal area are different attorneys than those that will be working with the Waukee School District on the negotiation of the development agreement, but they all work for Ahlers & Cooney.

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Council member Loots stated he will not support this conflict waiver, because he is not comfortable with the appearance of a conflict of interest.

It was moved by Trevillyan, second by Hudson to approve Item 4(f) Approval of Conflict Waiver with Ahlers & Cooney, P.C. Regarding Waukee Community School District.

Vote 24-368: Hardman, Hudson, McKinney, Trevillyan...4 yes

Loots ... 1 no

Motion carried.

On Item 4(n)3 Approval of Professional Services Agreement - Raccoon River Bridges Feasibility Study

Note: The council communication for this item inaccurately indicated that the Public Services Subcommittee recommended approval of this agreement; however, it was presented to the subcommittee as an informational item and no recommendation was made.

Council member Trevillyan expressed support for removing the South 35<sup>th</sup> Street and South 50<sup>th</sup> Street corridors from this study, because he does not believe it would make any sense to locate a bridge over the Raccoon River along either of those corridors. He noted they had already been considered in previous years and were deemed not feasible at the time.

Brian Hemesath, City Engineer, explained that this study would determine the feasibility of all potential locations for bridges across the Raccoon River, including areas west of I-35 and east of I-35. He reported that from an engineering perspective, the ideal location for a bridge on the east side of I-35 would be one that could most easily connect to the interchange of SE 35<sup>th</sup> Street and Iowa Highway 5. He stated staff will share with the consultant the history from what was considered in previous years regarding the South 35<sup>th</sup> Street and South 50<sup>th</sup> Street corridors. He also noted if any bridge is constructed on the east side of I-35, it would only be along the South 35<sup>th</sup> Street or South 50<sup>th</sup> Street corridors, but it would not be both corridors. He also explained that this professional services agreement is for an amount not to exceed \$140,000, but it is necessary because the Engineering Services department does not have the expertise on staff that is needed to complete this feasibility study.

Mayor Trimble expressed support for this professional services agreement because he believes a bridge over the Raccoon River would be beneficial from an economic development perspective, and it is important to determine whether or not each potential bridge corridor would be feasible from an engineering, financial, and political standpoint.

Council member Trevillyan stated the Council also needs to take into consideration the historical significance of the properties that could be impacted, as he noted Mr. Stull's property dates back to the 1870's.

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Council member McKinney expressed support for this professional services agreement, and he agreed that a bridge over the Raccoon River would be beneficial from an economic development perspective. He stated it would be important to gain an understanding of the pros and cons for each potential bridge corridor; however, he would not support any option that would disrupt Mr. Stull's property.

Council member Hudson expressed support for this professional services agreement, but he encouraged staff, if it is determined early in the process that the South 35<sup>th</sup> Street and/or South 50<sup>th</sup> Street corridors would not be feasible for any reason, they should not proceed with the full feasibility study for those corridors, so that the total cost of the study could be reduced.

Mayor Trimble noted a bridge over the Raccoon River would also be beneficial from a public safety perspective.

Tom Stull, 3530 Commerce Drive, expressed support for utilizing a consultant's expertise for this feasibility study, but he reiterated that he believes the areas east of I-35 should be excluded. He noted when a bridge at South 35<sup>th</sup> Street was considered in previous years, the Iowa Department of Natural Resources was opposed to a bridge along that corridor, as it would have impacted the west side of Walnut Woods State Park. He also noted the Iowa Department of Transportation was opposed to a bridge, as they desired to keep city traffic on city streets and off Iowa Highway 5. He suggested holding discussions with all these stakeholders before spending the money for this feasibility study.

It was moved by Trevillyan to approve Item 4(n)3 Approval of Professional Services Agreement - Raccoon River Bridges Feasibility Study, with an amendment to exclude the South 35<sup>th</sup> Street and South 50<sup>th</sup> Street corridors from the study. Motion died for lack of second.

It was moved by Hudson, second by McKinney to approve Item 4(n)3 Approval of Professional Services Agreement - Raccoon River Bridges Feasibility Study, as recommended by staff.

Council member Loots expressed support for this professional services agreement; however, he would not support any option that would disrupt Mr. Stull's property.

Council member Trevillyan requested that staff provide notification of the feasibility study to all property owners in the Commerce area so they have an opportunity to provide input as part of the study.

Mayor Trimble expressed concerns that such a notification could set a precedent the City may not want to set, so consideration will need to be given on how to do that.

Vote 24-369: Hardman, Hudson, Loots, McKinney...4 yes  
Trevillyan ... 1 no

Motion carried.

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On Item 4(r) Approval and Acceptance of Condemnation Award, Purchase Agreement, and Property Interests - Mills Civic Parkway Widening, South 81st Street to South 88th Street

Council member Trevillyan inquired why the condemnation award amount for one of the properties is \$15,985 above the City's highest offer.

City Attorney Greta Truman responded the condemnation went through a contested hearing with the condemnation commission, who has the ability to award the condemnation in an amount above the City's highest and best offer.

It was moved by Trevillyan, second by Loots to approve Item 4(r) Approval and Acceptance of Condemnation Award, Purchase Agreement, and Property Interests - Mills Civic Parkway Widening, South 81<sup>st</sup> Street to South 88<sup>th</sup> Street.

Vote 24-370: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 5(a) Amendment to City Code - Title 9 (Zoning), Chapter 3 (General Provisions) and Chapter 14 (Accessory Structures) - Modify Regulations Pertaining to Non-Conforming Fences, initiated by the City of West Des Moines

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

Vote 24-371: 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 McKinney to approve the second reading of the ordinance.

Vote 24-372: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

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

Vote 24-373: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 5(b) Removed

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On Item 6(a) Mayor Trimble indicated this was the time and place for a public hearing to consider Iles Funeral Home, 7200 and 7010 Ashworth Road - Amend Comprehensive Plan Land Use Map to Designate Multi Use Low Land Use and Amend the Reed's Crossing Planned Unit Development (PUD) Ordinance to Incorporate 7010 Ashworth Road into the PUD and to Regulate Funeral Services and Crematories Development, initiated by Iles Funeral Homes Real Estate, LLC. He asked for the date the notice was published and the City Clerk indicated the notice was published on August 30, 2024 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 comprehensive plan amendment and PUD amendment

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

It was moved by McKinney, second by Trevillyan to adopt Resolution - Approval of Comprehensive Plan Amendment.

Vote 24-374: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

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

Vote 24-375: 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 first reading of the ordinance.

Vote 24-376: 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 2023-2024 FY Community Development Block Grant Program - Consolidated Annual Performance Evaluation Report (CAPER), 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 6, 2024 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 Trevillyan to adopt Resolution - Approval of CAPER.

Vote 24-377: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 7(a) Delavan Warehouse, 2101 Delavan Drive - Approval of Final Plat to Create 14 Condominium Lots for Industrial Development and Two Outlots, initiated by Next Phase Development 2101 Delavan Drive, LLC

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

Vote 24-378: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 7(b) First Street Retail Space, 836 1st Street - Approval of Site Plan to Allow Construction of a 2,500 sq. ft. Retail Building, initiated by First Street, Limited Partnership

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

Vote 24-379: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 7(c) Amended and Restated Mills Parkway Urban Renewal Area (Subdistrict #5) - Terminate the Subdistrict #5 Tax Increment Financing (TIF) District and Repeal Portions of Ordinance Nos. 1384, 1560, 1740, 1800, 1824, 2014, 2072, 2314, 2427, 2466, 2558, and 2587, initiated by the City of West Des Moines

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

Vote 24-380: 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 McKinney to approve the first reading of the ordinance.

Vote 24-381: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 7(d) South 81st Street Urban Renewal Area - Amended TIF Ordinance (Jordan Ridge Project Area), initiated by the City of West Des Moines

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

Vote 24-382: 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 Hardman to approve the first reading of the ordinance.

Vote 24-383: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 7(e) Westown V Urban Renewal Area - Terminate the Urban Renewal Area and Repeal Ordinance Nos. 1848 and 2125, initiated by the City of West Des Moines

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

It was moved by McKinney, second by Hudson to adopt Resolution - Approval to Terminate the Urban Renewal Area.

Vote 24-384: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

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

Vote 24-385: 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 Hudson to approve the first reading of the ordinance.

Vote 24-386: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

On Item 8(a) William Crane Resignation - Human Services Advisory Board - Received and Filed

On Item 9 - Other Matters:

Council member Hardman requested that Mayor Trimble read Proclamation - Latino Heritage Month.

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Mayor Trimble read Proclamation - Latino Heritage Month.

The regular meeting was adjourned at 7:10 p.m. and a Council Workshop followed.

It was moved by Trevillyan, second by Loots to go into Executive Session per Chapter 21 of the Iowa Code, to discuss Performance Review.

Vote 23-387: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

Entered Executive Session at 8:44 p.m. with the following persons present in the Council Chambers of City Hall: Mayor Trimble, Council members Hardman, Hudson, Loots, McKinney, and Trevillyan; and City Clerk.

City Clerk left the executive session at 8:44 p.m.

City Clerk reentered the executive session at 8:55 p.m.

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

Vote 23-388: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes  
Motion carried.

Executive Session was adjourned at 8:55 p.m.

Respectfully submitted,

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Ryan T. Jacobson, CMC  
City Clerk

ATTEST:

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Russ Trimble, Mayor