



Document 2016 3960

Book 2016 Page 3960 Type 06 022 Pages 12

Date 12/22/2016 Time 12:51:51PM

Rec Amt \$62.00

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LISA SMITH, COUNTY RECORDER
MADISON COUNTY IOWA

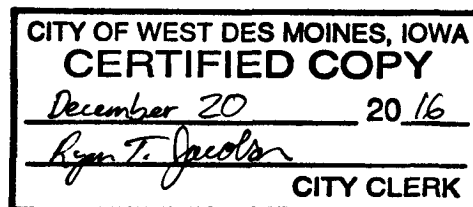
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Type of Document: Resolution No. 16-11-14-15

✓ **Return To:** Ryan Jacobson, City Clerk
City of West Des Moines
4200 Mills Civic Parkway, Suite 2B
West Des Moines, IA 50265

Prepared by: Nathan J. Overberg, Ahlers & Cooney, P.C., 100 Court Avenue, Ste. #600,
Des Moines, IA 50309, 515-243-7611

Taxpayer Information: Not Applicable



(These agenda items should be incorporated with the other items in your regular agenda and posted/published as required.)

AGENDA ITEMS

Governmental Body: The City Council of the City of West Des Moines in the State of Iowa.

Date of Meeting: November 14, 2016.

Time of Meeting: 5:30 P.M.

Place of Meeting: Council Chambers, City Hall, 4200 Mills Civic Parkway, West Des Moines, Iowa.

PUBLIC NOTICE IS HEREBY GIVEN that the above mentioned governmental body will meet at the date, time and place above set out. The tentative agenda for the meeting is as follows:

Osmium Urban Renewal Plan

- Public hearing on the proposal to enter into a Development Agreement with Microsoft Corporation.
- Resolution approving and authorizing execution of a Development Agreement by and between the City of West Des Moines and Microsoft Corporation (Project Osmium).

Such additional matters as are set forth on the additional 4 page(s) attached hereto.
(number)

This notice is given at the direction of the Mayor pursuant to Chapter 21, Code of Iowa, and the local rules of the governmental body.



City Clerk, City of West Des Moines in the
State of Iowa

CITY OF WEST DES MOINES

COUNCIL AGENDA

date: November 14, 2016

time: 5:30 P.M.

MAYOR	STEVEN K. GAER	CITY MANAGER.....	TOM HADDEN
COUNCILMEMBER AT LARGE.....	RICK MESSERSCHMIDT	CITY ATTORNEY.....	RICHARD SCIESZINSKI
COUNCILMEMBER AT LARGE	JIM SANDAGER	CITY CLERK.....	RYAN JACOBSON
COUNCILMEMBER 1 ST WARD	KEVIN L. TREVILLYAN		
COUNCILMEMBER 2 ND WARD	JOHN MICKELSON		
COUNCILMEMBER 3 RD WARD	RUSS TRIMBLE		

1. **Call to Order/Pledge of Allegiance/Roll Call/Approval of Agenda**
2. **Citizen Forum** (Pursuant to City Council Procedural Rules citizen remarks are limited to five minutes under this agenda category - if additional time is desired the Mayor/Council may allow continuation as part of the Other Matters portion of the agenda)
3. **Mayor/Council/Manager Report/Other Entities Update**
4. **Consent Agenda**
 - a. Motion - Approval of Minutes of October 31, 2016 and November 3, 2016 Meetings
 - b. Motion - Approval of Bill Lists
 - c. Motion - Approval of Liquor Licenses:
 1. Bonefish Grill, LLC, d/b/a Bonefish Grill, 650 South Prairie View Drive, Suite 100 - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
 2. Kiss My Grits, LLC, d/b/a Cabaret, 560 South Prairie View Drive - Class LC Liquor License with Sunday Sales and Outdoor Services - New
 3. Kum & Go, LC, d/b/a Kum & Go #1097, 220 50th Street - Class LE Liquor License with Carryout Beer, Carryout Wine, and Sunday Sales - New
 4. Lemon Grass, LLC, d/b/a Lemon Grass, 1221 8th Street - Class BW Permit with Sunday Sales - Renewal
 5. LVP SHS Des Moines Holding Corp. d/b/a Springhill Suites Hotel, 1236 Jordan Creek Parkway - Class BC Permit with Sunday Sales - Renewal
 - d. Motion - Approval of Order for Violation of Alcohol Laws
 - e. Motion - Approval to Purchase - Fire Department "Attack" Fire Apparatus
 - f. Motion - Approval to Sell Surplus City Equipment
 - g. Motion - Approval of Contracts - Art on the Campus
 - h. Motion - Approval of Contract Agreement Renewal - Park Security Services
 - i. Motion - Approval of Amendment No. 1 to Professional Services Agreement - 2014 Street Rehabilitation Sidewalk Ramp Program

Council Agenda

November 14, 2016

- j. Resolution - Order Preparation of Plans and Specifications - Holiday Park Baseball Field Improvements - Phases 4B and 5
- k. Resolution - Order Construction:
 - 1. 9th Street Storm Sewer Rehabilitation
 - 2. South 60th Street Improvements, Phase 2
 - 3. Grand Avenue Siphon Replacement Project
- l. Resolution - Accept Work:
 - 1. Intersection Improvements - Intersection of 92nd Street and University Avenue and Intersection of Jordan Creek Parkway and Westtown Parkway
 - 2. Veterans Parkway, Phase 4 - SE Pine Avenue Trail
- m. Resolution - Approval of Professional Services Agreement:
 - 1. Public Safety Station 21 HVAC Improvements - Commissioning
 - 2. Right-of-Way Acquisition Services
- n. Resolution - Establish Public Hearing Regarding the Final Design, Site Selection and Consideration of Acquiring Agricultural Property - Project Osmium Public Infrastructure
- o. Resolution - Approval of IEDA Economic Development Assistance Contract - ePATHUSA, Inc.
- p. Resolution - Approval and Acceptance of Condemnation Award - Grand Avenue Siphon Replacement Project
- q. Resolution - Approval of Offer to Purchase and Agreement - Madison County Property for Future Park
- r. Proclamation - Approval of Proclamations:
 - 1. World Pancreatic Cancer Day, November 17, 2016
 - 2. Small Business Saturday, November 26, 2016

5. Old Business

- a. Browns Woods Estates, west side of Veterans Parkway and south of SE Browns Woods Drive - Rezone from Residential Estate and Residential Medium Density to Single Family Residential - Venture Homes, LLC
 - 1. Ordinance - Approval of Second, Third Readings and Final Adoption (RE-1A and RM-8 to R-1)
 - 2. Ordinance - Approval of Second, Third Readings and Final Adoption (RE-1A and RM-8 to RS-30)
- b. Amendment to City Code - Title 9 (Zoning), Chapter 14 (Accessory Structures) - Regulate Materials Used on Fuel Pump Island Canopies - City Initiated
 - 1. Ordinance - Approval of Second, Third Readings and Final Adoption
- c. Amendment to City Code - Title 6 (Motor Vehicles and Traffic), Chapter 9 (Traffic Schedules), Section 5 (Special Restricted No Parking Areas) - 34th Street Place, Brookview Drive to Meadow Lane - City Initiated
 - 1. Ordinance - Approval of Second, Third Readings and Final Adoption

6. Public Hearings (5:35 p.m.)

- a. 1st Street Redevelopment PUD, 1st Street and Grand Avenue - Revise Planned Unit Development (PUD) Sketch Plan to Accommodate Building Relocation and Associated Site Design - First Street LP
 - 1. Ordinance - Approval of First Reading
- b. Whisper Ridge Plat 3, south of Bridgewood Boulevard along South 91st Street - Vacate 30 foot Buffer Park Easement along the South Lot Lines of Lots 15-18 - Hidden Creek, LLC
 - 1. Resolution - Approval of Vacation Request
- c. Amendment #2 to Alluvion Urban Renewal Area - City Initiated
 - 1. Resolution - Approval of Urban Renewal Plan Amendment
 - 2. Ordinance - Approval of First Reading (Willow Creek Plat 1, Lot 4 Parcel)
 - 3. Ordinance - Approval of First Reading (Tract 3 of Amendment No. 2 Parcel)
- d. Osmium Urban Renewal Area - City Initiated
 - 1. Resolution - Approval of Urban Renewal Plan
- e. Project Osmium - Agreement for Private Development - Microsoft Corp.
 - 1. Resolution - Approval of Agreement

7. New Business

- a. GeAnna Grove, west of Sedona Drive at GeAnna Drive - Subdivide Property into 20 Lots for Townhome Development and One Outlot - Jerry's Homes
 - 1. Resolution - Approval and Release of Final Plat and Acceptance of Public Improvements
- b. Country Club Office Plaza West Plat 8, 1080 Jordan Creek Parkway - Replat Lot 1 Country Club Office Plaza West Plat 3 and Outlot B, Country Club Office Plaza - Dallas County Partners
 - 1. Resolution - Approval of Preliminary Plat

8. Receive, File and/or Refer

9. Other Matters

CITY COUNCIL WORKSHOP

(immediately follows Council meeting)

1. DART Forward 2035 Presentation
2. Other Matters

The City of West Des Moines is pleased to provide accommodations to disabled individuals or groups and encourages their participation in city government. Should special accommodations be required please contact the Clerk's office at least 48 hours in advance, at 222-3600 to have accommodations provided.

November 14, 2016

The City Council of the City of West Des Moines in the State of Iowa, met in regular session, in the Council Chambers, City Hall, 4200 Mills Civic Parkway, West Des Moines, Iowa, at 5:30 P.M., on the above date. There were present Mayor Gaer, in the chair, and the following named Council Members:

Messerschmidt, Mickelson, Trimble, Trevillyan, Sandager

Absent: none

* * * * *

The Mayor announced that this was the time and place for the public hearing and meeting on the matter of the proposal to approve and authorize execution of a Development Agreement by and between the City of West Des Moines and Microsoft Corporation, and that notice of the proposed action by the Council to enter into said Agreement had been published pursuant to the provisions of Section 364.6 of the City Code of Iowa.

The Mayor then asked the Clerk whether any written objections had been filed by any City resident or property owner to the proposed action. The Clerk advised the Mayor and the Council that 0 written objections had been filed. The Mayor then called for oral objections and 0 were made. Whereupon, the Mayor declared the time for receiving oral and written objections to be closed.

(Attach here a summary of objections received or made, if any)

The Council then considered the proposed action and the extent of objections thereto.

Whereupon, Council Member Sandager introduced and delivered to the Clerk the Resolution hereinafter set out entitled "RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF WEST DES MOINES AND MICROSOFT CORPORATION (PROJECT OSMIUM)", and moved:

- that the Resolution be adopted.
- to defer action on the Resolution and the proposal to the meeting to be held at _____ .M. on the _____ day of _____, 2016, at this place.

Council Member Messerschmidt seconded the motion. The roll was called and the vote was,

AYES: Sandager, Messerschmidt, Mickelson, Trevillyan, Trimble

NAYS: none

Whereupon, the Mayor declared the measure duly adopted.

RESOLUTION NO. 16-11-14-15

RESOLUTION APPROVING AND AUTHORIZING
EXECUTION OF A DEVELOPMENT AGREEMENT BY AND
BETWEEN THE CITY OF WEST DES MOINES AND
MICROSOFT CORPORATION (PROJECT OSMIUM)

WHEREAS, by Resolution No. 16-11-14-14, adopted November 14, 2016, this Council found and determined that certain areas located within the City are eligible and should be designated as an urban renewal area under Iowa law, and approved and adopted the Osmium Urban Renewal Plan (the "Plan") for the Osmium Urban Renewal Area (the "Urban Renewal Area" or "Area") described therein, which Plan will be filed in the offices of the Polk, Warren, Madison, and Dallas County Recorders; and

WHEREAS, the City of West Des Moines ("City") and Microsoft Corporation ("Developer") propose to enter into a Development Agreement ("Agreement"), wherein the Developer plans to construct a regional data center and associated support infrastructure to house servers and computer equipment to operate large scale web portal services, and when completed the building will include at least 1,701,000 square feet ("Project"); and

WHEREAS, the Developer estimates that the total investment for the Project will total \$981,240,000 and the project is expected to be completed over the next seven years; and

WHEREAS, one of the obligations of Developer relates to employment retention and/or creation; and

WHEREAS, in general, the Agreement obligates the City to make an Economic Development Grant to Developer, and construct Public Use Improvements related to the Project, including but not limited to, roads, utility projects and other public facilities; and

WHEREAS, more specifically, the Developer shall construct the Project, employ employees, and agree to a Minimum Assessment Agreement on the land and new buildings, which Minimum Assessment Agreement provides that the Project will be assessed at various values, with a high of approximately \$313,600,000 in assessed valuation. The Tax Increment (specific property taxes) generated by the construction of the Project will be used to pay the debt service on general obligation City Bonds proposed to be issued to fund the Economic Development Grant and the Public Use Improvements. City Bonds, at an estimated, aggregate face value of \$97,165,000, not including issuance or interest costs, will be used to fund the Economic Development Grant and Public Use Improvements. Projected costs of indebtedness will vary depending on the cost of the Public Use Improvements, timing of sales, sales terms, tax rates and other factors. The incentives provided by the City shall serve as the local match under any Iowa Economic Development Authority Contract which provides state incentives to the Developer for the Project; and

WHEREAS, Iowa Code Chapters 15A and 403 authorize cities to make loans and grants for economic development in furtherance of the objectives of an urban renewal project and to

appropriate such funds and make such expenditures as may be necessary to carry out the purposes of said Chapters, and to levy taxes and assessments for such purposes; and

WHEREAS, the Council has determined that the Agreement is in the best interests of the City and the residents thereof and that the performance by the City of its obligations thereunder is a public undertaking and purpose and in furtherance of the Plan and the Urban Renewal Law and, further, that the Agreement and the City's performance thereunder is in furtherance of appropriate economic development activities and objectives of the City within the meaning of Chapters 15A and 403 of the Iowa Code taking into account any or all of the factors set forth in Chapter 15A, to wit:

- a. Businesses that add diversity to or generate new opportunities for the Iowa economy should be favored over those that do not.
- b. Development policies in the dispensing of the funds should attract, retain, or expand businesses that produce exports or import substitutes or which generate tourism-related activities.
- c. Development policies in the dispensing or use of the funds should be targeted toward businesses that generate public gains and benefits, which gains and benefits are warranted in comparison to the amount of the funds dispensed.
- d. Development policies in dispensing the funds should not be used to attract a business presently located within the state to relocate to another portion of the state unless the business is considering in good faith to relocate outside the state or unless the relocation is related to an expansion which will generate significant new job creation. Jobs created as a result of other jobs in similar Iowa businesses being displaced shall not be considered direct jobs for the purpose of dispensing funds; and

WHEREAS, pursuant to notice published as required by law, this Council has held a public meeting and hearing upon the proposal to approve and authorize execution of the Agreement and has considered the extent of objections received from residents or property owners as to said proposed Agreement; and, accordingly the following action is now considered to be in the best interests of the City and residents thereof.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES IN THE STATE OF IOWA:

Section 1. That the performance by the City of its obligations under the Agreement, including but not limited to making of a grant to the Developer in connection with the development of the Development Property under the terms set forth in the Agreement, be and is hereby declared to be a public undertaking and purpose and in furtherance of the Plan and the Urban Renewal Law and, further, that the Agreement and the City's performance thereunder is in furtherance of appropriate economic development activities and objectives of the City within the

meaning of Chapters 15A and 403 of the Iowa Code, taking into account the factors set forth therein.

Section 2. That the form and content of the Agreement, the provisions of which are incorporated herein by reference, be and the same hereby are in all respects authorized, approved and confirmed, and the Mayor and the City Clerk be and they hereby are authorized, empowered and directed to execute, attest, seal and deliver the Agreement for and on behalf of the City in substantially the form and content now before this meeting, but with such changes, modifications, additions or deletions therein as shall be approved by such officers, and that from and after the execution and delivery of the Agreement, the Mayor and the City Clerk are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Agreement as executed.

PASSED AND APPROVED this 14th day of November, 2016.



Mayor

ATTEST:



City Clerk

CERTIFICATE

STATE OF IOWA)
) SS
COUNTY OF POLK)

I, the undersigned City Clerk of the City of West Des Moines, State of Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate records of the City showing proceedings of the City Council, and the same is a true and complete copy of the action taken by the Council with respect to the matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of public hearing and tentative agenda, a copy of which was timely served on each member of the Council and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Council (a copy of the face sheet of the agenda being attached hereto) pursuant to the local rules of the Council and the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required by law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective City offices as indicated therein, that no Council vacancy existed except as may be stated in the proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of the Council hereto affixed this 14th day of November, 2016.



City Clerk, City of West Des Moines, State of Iowa

(SEAL)