REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES January 12, 2006

The regular meeting of the Des Moines City Council was called to order at 7:30 p.m. by Mayor Sheckler in the Council Chambers, 21630 11th Avenue South, Suite B.

PLEDGE OF ALLEGIANCE to the Flag was led by Councilmember Elect Scott.

OATH OF OFFICE

City Attorney Marousek administered the Oath of Office to Councilmembers Elect Dave Kaplan, Ed Pina, Carmen Scott and Susan White.

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, Dan Sherman and Susan White. Also in attendance were City Manager Tony Piasecki, City Attorney Linda Marousek, Land Use Planner Jason Sullivan and City Clerk Denis Staab.

ELECTION OF MAYOR

Mayor Sheckler read the City Council rules for conducting the election of Mayor and Mayor Pro Tem.

City Clerk Staab declared the nominations for Mayor were opened.

Councilmember Scott nominated Bob Sheckler. As there were no further nominations, City Clerk Staab declared Mr. Sheckler as Mayor, for the next two years, by unanimous consent.

ELECTION OF MAYOR PRO TEM

Mayor Sheckler asked for nominations for Mayor Pro Tem.

Councilmember Sherman nominated Scott Thomasson. As there were no further nominations, Mayor Sheckler declared Mr. Thomasson as Mayor Pro Tem, for the next two years, by unanimous consent.

COMMENTS FROM THE PUBLIC

James Chastain, 32849 38th Ave. S., Federal Way

Mr. Chastain informed Council that he owns rental property in the area of 30th and South 216th. He stated that it is a basic human right to expect that government provides a degree of safety from gangsters, thugs and scum. He stated that beautifying Highway 99 was nice, but you cannot walk the streets day or night and feel safe. He reported that the other day on his property, he was having a window replaced that had been shot out, when he witnessed a man shot in the head. He further reported having tenants door kicked in by a drug user. He informed Council that the type of activities that are occurring in the neighborhood are not good for the landowners or the community. He stated he cannot rent the units, or sell the property, comfortably with this criminal activity occurring.

Jane Chastain, 32849 38th Ave. S., Federal Way

Ms. Chastain informed Council that she and her husband own two rental properties in the area of 30th and South 216th. She stated they are proud of the rentals as clean, with new carpeting, but seven of the twelve units are vacant as no one wants to live in the neighborhood because of the crime. She told Council that people hang out in their parking lot to sell and use drugs, prostitutes have worked out of their laundry room, hoodlums hang out in the common hall ways, and locks are broken. She advised that drugs are sold 24/7. She concluded by advising that if this criminal activity is ignored it will only get worse. She requested City help in cleaning up the area.

(Unable to Determine Name), 21637 30th Avenue South

The gentleman informed Council that he owns the four-plex and he has lived in one of the units for the past two years. He advised that this area is a drive through for buying and selling drugs. He stated that he has had storage units broken into, found bullets and there are thugs lurking in the bushes. He informed Council that he is afraid to live and own property here due to the overwhelming criminal elements and that by summer Des Moines will be one of the most dangerous places to live. He asked for more police protection.

BOARD & COMMITTEE REPORTS and COUNCILMEMBER COMMENTS

Suburban Cities

Councilmember Sherman reported attending a recent meeting for people who represent Suburban Cities on regional committees, as he is the alternate for Public Health. The meeting was to advise members that they are representing Suburban Cities and not their individual positions on the various committees.

Newly Elected Councilmembers

Councilmember Sherman took this opportunity to congratulate the new Councilmembers and noted he is looking forwarded to working with each one, having agreements and disagreements, but hopefully productive discussion over the next few years.

Pacific Highway South Criminal Activity

Councilmember Sherman noted Council is well aware of the problems and have implemented some programs such as the 'Crime Free Program' with rental properties. He advised that we need to restore the City's police force and again asked fellow Councilmembers to put on the ballot a levy lid lift to provide funding to bring police staffing levels up to where they were 5 or 6 years ago.

Small Business Developmental Center

Councilmember White noted the group is composed of a coalition of neighboring cities, Highline College and King County. The goal is to provide information to anyone interested in opening a business in the area.

Suburban Cities Association

As a member of the Board of Directors, Executive Committee, Councilmember White stated that the organization addresses various issues within the cities. She stressed the organization is making great progress and noted that there is a vacancy on the Public Issues Committee, which meets monthly. She noted that the Mayor will address this later on the Agenda.

Four Culture Group

Councilmember White reported the City applied for a $50,000 grant. She expressed optimism that the City will get the grant to help the Beach Park. She thanked Parks and Recreation Director Thorell and Councilmember Scott for their assistance in applying for the grant.

Passenger Ferry Coalition

Councilmember White reported the next meeting will be January 20th and the group is currently looking for funding for a feasibility study which would create a pilot project for Des Moines, Gig Harbor, and Tacoma, to see how effective passenger ferry service might be.

Looking Forward

Councilmember Pina noted that he looks forward to successfully working with the Councilmembers. He expressed hope Council can work together to restore the Police force to its proper size as there is a great need to solve the safety and security problems that exist in Des Moines. He further advised that he wants the City's budget restored, one that is not depending on one time money for recurring costs.

City Manager's Performance Evaluation Committee

Mayor Pro Tem Thomasson noted the Mayor formed the Committee last Fall, and forms were sent to Councilmember's for comment and the return of the forms was very low. He noted with three new Councilmembers it is difficult to ascertain the City Manager's performance. He noted he is sad to report nothing conclusive has been done yet.

ADMINISTRATION REPORTS

Fire District Merger

City Manager Piasecki announced the successful merger of Fire Districts 26 and 39 as of the first of the year. He reported that he and Mayor Sheckler attended the Open House Celebration. He stated he is excited about the large, very flexible organization and its ability to provide a bunch of really cool services. The name of the merged districts is "South King Fire & Rescue'.

Rain Caused Slides

Planning, Building and Public Works Director Fredericks reported that the City was doing well until yesterday, when the earth fell out at two areas as follows:

1. Des Moines Memorial Drive: A section of embankment on the Des Moines Creek side of the road. North bound lane closed temporarily, and recommendations were made and implemented and the lane re-opened this morning. There are 'jersey' barriers along 200' feet as there is no shoulder. Will monitor closely until permanent repairs can be made.

2. Northwest Edge of Marine View Drive Bridge: A significant wash-out carried with it one of the storm drains from North Hill. Drain has been diverted and pumps will be working. Situation is under control and is optimistic this will work until the rains stop and can fully asses the issues.

He noted there has been a few other less significant flooding in a few neighborhoods. He reported City crews are working hard and there has only been 8 calls for service.

He concluded by reporting that the City Manager has formally declared an emergency to by pass the normal contracting process to allow immediate response. He advised, as the law requires, a full report will be brought back to Council at the meeting of January 26th.

PRESIDING OFFICER'S REPORT

Presentation by Samoan Christian Fellowship Church

Mayor Sheckler reported that last November he attended a full day event for dedication of the Samoan Christian Fellowship Church in North Hill. He was very impressed and invited the Church to attend this meeting. Mayor Sheckler introduced Pastor Tuugasala Fuga.

Pastor Fuga advised that the Church is happy to become a member of Des Moines and expressed offers of support to the community and Council. He informed Council that once the Church construction is complete, the facility is being offered as a 'relief center' for the entire City in the event of any critical emergency. He introduced Rudy Allen, one of the High Talking Chiefs of the Church.

Mr. Allen presided over a ceremony of respect to the Mayor and Councilmembers, which is seldom done outside their culture. A large thatched blanket, a Samoan gift of respect, was presented as a symbol of shelter. In addition other gifts included a large roasted pig, cans of corned beef and tuna were presented representing a plat for the King, and leis were given to each Councilmember and staff on the dais.

At the end of the presentation a standing ovation was given to the Church members by Council and the audience.

8:30 p.m. Mayor Sheckler called for a 10 minute break.

CONSENT CALENDAR was read by City Clerk Staab.

1. Findings: Vouchers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing which has been made available to the City Council.

Motion: As of this date the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the above list and further described as follows:

Claim checks # 102330 through #102496 & electronic fund transfers in the total amount of $819,661.28

Payroll fund transfers in the total amount of $351,028.73

~~**2. Motion is to accept a 60 month lease with Kelley Imaging Systems in the monthly amount of $1,383.40, excluding sales tax, and authorize the City Manager to sign said agreement in a form approved by the City Attorney.**~~ [ED NOTE: Item removed by Mayor Pro Tem Thomasson.

3. Motion is to approve the transfer up to $28,525 from the Municipal Capital Improvement City Hall Parking Lot Project budget to the Municipal Capital Improvement Activity Center Street Frontage Improvement Project, and to award the contract for the Des Moines Activity Center Street Frontage Improvement Project to the lowest bidder, Precision Earthworks, in the amount of $54,400 plus tax, and authorize the City Manager to sign the contract substantially in the form as submitted. And to authorize the City Manager to approve change orders not to exceed 10% of the total contract amount.

4. Motion is to authorize payment of registration and travel expenses of approximately $300 each for Mayor Sheckler and Councilmembers White, Pina and Scott to attend the Association of Washington Cities Legislative Action Conference in Olympia on January 25-26, 2006.

Mayor Pro Tem Thomasson requested Consent Item #2 be removed.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Pina to approve the Consent Calendar as amended. Motion passed unanimously.

REMOVED CONSENT ITEM #2

Photocopy Agreement with Kelley Imaging Systems

Upon questioning by Mayor Pro Tem Thomasson, City Manager Piasecki stated it is best to lease versus purchasing, as technology changes so quick. He noted that some of the copiers are multi-functional and are compatible with the City's computers. Each department has their own unique needs and are in separate locations.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Pina and passed unanimously, to accept a 60 month lease with Kelley Imaging Systems in the monthly amount of $1,383.40, excluding sales tax, and authorize the City Manager to sign said agreement in a form approved by the City Attorney.

CONTINUED PUBLIC HEARING

Highline Community College, Shoreline Conditional Substantial Development Permit

Mayor Sheckler introduced the topic.

City Attorney Marousek noted that this is a quasi-judicial matter, and inquired of the three new Councilmembers as to whether they had reviewed the previous minutes and documents regarding this matter in order to participate in this public hearing. The response was in the affirmative from Councilmembers Kaplan, Pina and Scott. She further noted that Councilmember Pina served as a Planning Agency Member and has reviewed the matter in that capacity. She advised that under RCW 42.36.070, the statute specifically states "Participation by a member of a decision making body in earlier proceedings that result in an advisory recommendation, to a decision making body, shall not disqualify that person from participating in any subsequent quasi-judicial proceeding". Therefore, her decision is that Mr. Pina is fully qualified to act as a member of the Council on this matter.

Land Use Planner Sullivan noted Council must determine if the proposed project satisfies the criteria for a Shoreline Conditional Substantial Development Permit and either approve, approve with conditions, or disapprove per DMMC 18.56.180(2). He briefly reviewed progress from the November 10 and December 2, 2005, Council meetings of the College's request for replacement of their Marine Science and Technology Center in Redondo. He reminded Council this is a four step process consisting of 1) Environmental Review (done), 2) Conditional Shoreline Permit (tonight), 3) Design Review and 4) Building Permit. He informed Council all four steps must be completed before construction can begin.

Land Use Planner Sullivan reviewed questions submitted to staff and commented as follows:

- *It would be helpful to have a copy of the agreement between the College and the City pertaining to parking at Redondo.*

A meeting was held between the College and City Manager, and an informal agreement was made that the students could park in the City's parking lot for free if they displayed a Highline College parking pass.

City Manager Piasecki noted this was an informal agreement and the intention was that the staff from Highline College would get with Des Moines Harbormaster and finalize the agreement. He advised this action never occurred so in his opinion there is no parking agreement in place.

Land Use Planner Sullivan stated this would mean the College students would be required to pay if they use the City's facility.

- *How large is the lot/land owned by the College at the site?*
  Land Use Planner Sullivan advised there is 3,663 square feet of Shoreline, some underwater. He noted there is no upland area to establish a separate parking facility on the land side of the bulkhead.

- *If no land available, how do we solve perspective of parking issues?*
  Land Use Planner Sullivan advised that based on City Code, when land is not available for parking on the same site as the proposed building, the Planning, Building and Public Works Director has the authority to grant off-site parking. He noted this is attachment 2 in tonight's packet. He noted any agreement would done as part of the Design Review phase.

  City Manager Piasecki advised that any type of parking agreement that requires Council approval, it would come back to Council before it passed the Design Review phase. He stated the College is very aware that the City Code requires them to have 10 spaces.

- *If the parking issue continues to be a 'show stopper' would creating street parking or improvements equivalent to 20 spaces, up the road past Wooton Park, be a satisfactory in lieu exchange?*
  Land Use Planner Sullivan informed Council that any impacts we require the College to mitigate have to be targeted and we have to show a direct connection between those impacts and the mitigation.

Land Use Planner Sullivan displayed a parking survey prepared by the College, noting that there are currently 39 parking stalls in the Redondo facility and that does not include the boat or trailer parking stalls. He pointed out that during the time classes were in session there is a very low parking count at the site. He noted this was done in November, but noted the College does not offer classes during the peak boating season.

Land Use Planner Sullivan concluded by noting administration believes the proposed project to replace the existing structure with a new modern structure to be utilized in an identical manner, will not create any substantial detrimental impact to the Community and does not impede the communities access to the shoreline, but will provide recreational uses of the shoreline. Further, it will work to protect the eco system and the project is consistent with the objectives of RCW 9.58.020, Shoreline Management Act, and it does not adversely effect the public health, the terrestrial environment or the aquatic environment. Furthermore, it does not reduce the public's right to use the shoreline. The project is consistent with the criteria and goals of both the Shoreline Master Program and the Shoreline Management Act; therefore administration sees no reason why the Council should not approve the request.

Upon questioning by Mayor Pro Tem Thomasson as to whether there are any established parking requirements that are related to schools, Land Use Planner Sullivan noted staff used DMMC 18.44.060(19) to determine the parking stalls, which is based on the Fire Occupancy Load of the building for the class room. However he noted the final review will be done during the Design Review process.

Mayor Pro Tem Thomasson stated he has a problem with approving the application when he only knows half the story and feels that Council is being prematurely asked to make a decision. He noted that when the old structure is torn down, you start from scratch in terms of Code compliance. He stated he is worried that there may be a dozen of other issues that staff is not yet aware of. He further stated that he has not been shown that the project does not adversely effect the public health, safety or interests, and the public will not suffer any detrimental effect. He felt that he does not have enough information to reach a decision and thought it would be better to have the building permit submitted, and the Design Review complete, so that Council's action is just a confirmation that everything is okay.

Councilmember Pina advised that the College is planning on doing exactly what they have been doing and the Shoreline Plan allows that they can, since they are not damaging the environment. He felt that if the College plans on increasing the number of students or classes, then the request would have to come back to Council again, but as long as no changes are made then they are okay.

Councilmember Scott noted that classes are held mainly when there are not many visitors in the area, such as during the week, but not during the summer, therefore it does not seem to be a great demand for more parking. However, she agreed with Councilmember Pina, that should the College make changes to the use that increase parking needs, such as having the aquarium open on week-ends especially during the summer, then there may be case for concern over adequate parking, otherwise it is a non issue.

Councilmember Sherman stated that when the College's current facility was built it was not in the City. By annexation it is now in the City and any new construction must be built to our Code. He expressed agreement with Mayor Pro Tem Thomasson that Council should not approve the application until after Design Review approval and application for a building permit is made. He expressed some concern that there should be consideration given to the possibility that the College could hold classes during the summer or other peak times when parking is a problem. In regards to parking, he felt that the College should either pay for parking, or perhaps an arrangement for in-lieu services.

Upon questioning by City Attorney Marousek, Land Use Planner Sullivan advised that the College has the option that they could seek design approval, apply for a building permit and a Shoreline Permit concurrently. However, they cannot get approval for a building permit unless they have a Shoreline Permit first. He further advised that design approval is conceptual in nature so they could apply for that without actually apply for the building permit. He advised that staff must be sure that the Shoreline Permit is acceptable to Council, and will not significantly impact the neighborhood or marine environment. He further advised that only the

Planning, Building and Public Works Director has the authority to decide design review and building permits, not the City Council.

Councilmember White felt that the College facility may not have negative impacts on the shoreline, but has concerns that a new beautiful new facility will impact the community with parking issues.

Upon questioning from Councilmember Pina regarding potentially expanding the parking lot, City Manager Piasecki stated there is the potential to expand the paid parking area, but there is the question of how to fund such an expansion.

City Manager Piasecki advised that the Code states that parking is either on site or you figure out a way to do it off site. In regards to a parking agreement with the College, he noted it might say they are going to pay for ten stalls, but they can only be used during the lower peak hours.

Land Use Planner Sullivan noted that in DMMC 18.44.020 it states regarding pre-existing parking spaces 'a facility that was in operation before May 8, 1987, may continue to operate with a parking deficiency as no enlargement or changes are made that require additional parking spaces.' He pointed out that there is no enlargement of the facility, or change, that would require additional parking spaces.

Mayor Sheckler declared the Public Hearing closed.

MOTION was made by Councilmember Pina, seconded by Councilmember Kaplan, to direct staff to prepare a resolution, and draft finding of fact and conclusions consistent with the following conditions of approval:

1. The applicant shall seek approval from the City Council to significantly increase frequency 'or seasons' of usage of the new Marine Science and Technology Center over the current usage as describe below:
    a. Six class periods per week
    b. Public Aquarium view one day a week
    c. Public lecture series twice a month
2. The applicant shall follow all applicable plans, codes and regulations during the land use permitting and building construction phase of the Marine Science and Technology Center.
3. The applicant shall develop a construction staging plan acceptable to City administration prior to submittal of a building permit.

A FRIENDLY AMENDMENT was offered, and accepted by Councilmember Sherman, to insert "or seasons" in item one between 'frequency' and 'of'.

Councilmember Sherman commented that while overall he approves of the use, he feels there is a trust issue in what staff will do, and whether they will apply the proper regulations. He felt there is a lot of concern over potential parking issues.

Mayor Pro Tem Thomasson advised he can support the motion, it is more a matter of when. He noted it would be better if staff completed design review prior to bringing a resolution back to Council to approve the Shoreline Permit.

Councilmember Pina stated it is important for Council to trust staff, monitor what they are doing and respond to actions they are taking, not to Council's fears.

Councilmember Kaplan felt that the conditions as outlined ensure that if there is going to be any additional impact, it will have to come back to Council. He felt it is not right to hold up this permit over a larger issue of parking in Redondo, which everyone is aware of and if it is that bad, then Council needs to address that issue on a more global scale. Holding the College hostage over the permit, that will beautify and enhance the area, is a mistake.

VOTE ON MOTION: Motion passed 6 to 1 with Mayor Pro Tem Thomasson opposed.

NEW BUSINESS

Appointment of City's South County Transportation Board Representative & Alternate and, Appointment of Council Representative & Alternate to Suburban Cities Association's Public Issues Committee

Mayor Sheckler inquired if any Councilmember would be interested in serving in either of these capacities.

Councilmember Sherman remarked that that he has served on the South County Transportation Board for the past 10 years and on the Public Issues Committee for the past year. He stated they are both great organizations and the City does receive benefits. He advised that he is feeling over-extended and will be unable to continue. He noted that Councilmember White, also over-extended, has served as the alternate on the Public Issues Committee. He informed Council that the Committee will be making some upcoming important decisions in shaping policy that will effect all the cities in King County.

MOTION was made by Councilmember Sherman, seconded and passed, to appoint Planning, Building and Public Works Director Fredricks as the alternate to the South County Transportation Board.

As there were no volunteers for the appointments, Mayor Sheckler announced that he will be contacting all Councilmembers in the next week to determine interests for appointments to Council's standing committees and other liaison assignments.

NEXT MEETING DATE - Regular Meeting January 26, 2005

Mayor Sheckler announced that the next regular meeting will be January 25, 2005.

ADJOURNMENT

At 10:04 p.m. MOTION was made by Councilmember White, seconded by Mayor Pro Tem Thomasson and passed unanimously, to adjourn.

Respectfully submitted,

Denis Staab
City Clerk