

## REGULAR MEETING DES MOINES CITY COUNCIL

### MINUTES

January 26, 2006

The regular meeting of the Des Moines City Council was called to order at 7:33 p.m. by Mayor Sheckler in the Council Chambers, 21630 11<sup>th</sup> Avenue South, #B.

PLEDGE OF ALLEGIANCE to the Flag was led by Councilmember Kaplan.

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, Planning, Building and Public Works Director Grant Fredricks, Assistant City Engineer Loren Reinhold, Development Services Manager Robert Ruth and City Clerk Denis Staab.

### COMMENTS FROM THE PUBLIC

#### Bob Pond, 23116 30<sup>th</sup> Avenue South

In regards to increasing law enforcement personnel, Mr. Pond felt it should be based on a solid plan, not how deep the pockets of taxpayers are. He suggested a four year plan, hiring two officers each year, with exact costs spelled out for the voters. He felt this plan should not be linked to a police sub-station. He stated we need to end the Police work slow down and enforce all laws. He also felt more respect and communication is needed from the police to the public. He requested a "can do" approach from the police to solving the City's crime by working together with respect.

### BOARD & COMMITTEE REPORTS

#### AWC Convention

Councilmember Scott reported attending the Convention this week in Olympia along with City Manager Piasecki, Mayor Sheckler and Councilmembers Pina and White. She advised they met and talked with Legislators about issues important to the City. She further noted networking with many other people and attending classes. She stated it was a very worthwhile two days for all of them.

### COUNCILMEMBER COMMENTS

#### Des Moines Beach Park

Councilmember White announced that the Beach Park has officially received the National Nomination to be on the National Register for Historic Places. She advised that this designation will help the City regionally along with economic development. She stated there are numerous people to thank such as Parks and Recreation Director Thorell and Councilmember Scott. She advised that they are trying to get the Governor to come to the Beach Park to present the plaque and certificate.

#### Streamline Sales Tax

Councilmember Pina reported that the bill has passed out of the Senate with a vote of 48 to 0. It is now in the House. He noted that it is felt there is enough support that it may pass this year.

Thank You

Councilmember Kaplan expressed thanks for the opportunity to serve the City a second time. He was pleased to note that his mother was in attendance at his swearing in ceremony.

Beach Park National Designation

Councilmember Scott remarked that the Beach Park represents the birth place of Des Moines. She advised it took the efforts of a great many people to collect the necessary parts to achieve the National Designation. She complimented Councilmember White's efforts in getting Legislative levels of people to provide help and funding. She further recognized Mr. Sullivan and Ms. Woo of Artifacts. She noted that back in the 1980s there used to be 100 parks, church and private, around Puget Sound and that they have all disappeared except Des Moines's. She advised that photos and history of the Park are available on the internet, and some of the photos are on tables in the Council Chambers this evening.

PRESIDING OFFICER'S REPORT

50<sup>th</sup> Wedding Anniversary

Mayor Sheckler announced that Bob and Gail Thorson of Des Moines will be celebrate their 50<sup>th</sup> Wedding anniversary on February 11<sup>th</sup>. He congratulated them and passed a card for Councilmembers to sign.

Oath of Office, Judge Hartl

Mayor Sheckler administered the Oath of Office to Des Moines' Municipal Court Judge Colleen Hartl.

Judge Hartl informed Council that she is proud of the City's Municipal Court and its Court Administrator Jennefer Henson. She noted that Des Moines Municipal Court is one of the highest ranked in the State of Washington.

ADMINISTRATION REPORTS

Regional Commission on Airport Affairs (RCAA)

City Manager Piasecki noted the City received several e-mails expressing support of the proposed contract with RCAA which is on the Agenda this evening.

24<sup>th</sup> Avenue/South 216<sup>th</sup> Signal Improvement

Planning, Building and Public Works Director Fredericks reported a possibility of a three week closure on the north leg of 24<sup>th</sup> Avenue South at 216<sup>th</sup> to facilitate the traffic signal construction. He reported staff is evaluating the impacts with the Contractor and the community, and have been in contact the Church and the City of SeaTac. He noted they are looking at trying to balance the costs of flagging to try to maintain an open intersection versus the benefits of a closure. He advised we have run into some unexpected expenses due to the deteriorated condition of the pavement in that area. He stated that if the closure is necessary it will occur around February 12<sup>th</sup>.

Draft Resolution No. 06-015 [ASSIGNED RESOLUTION NO. 1005] Emergency Work 2006  
Landslides

Assistant City Engineer Reinhold, with the use of photos, detailed the two landslides that resulted from recent heaving rains which necessitated emergency contracts by the City Manager as follows:

1. *Des Moines Memorial Drive - Shoulder failure, 4 foot drop off at pavement edge - \$10,000 to \$15,000*
  - 225' of concrete barrier.
  - Placement of 250' of sandbags.
  - Placement of a roll of plastic membrane & sandbags
  - Professional services for AMEC (\$5,000) for on-call services & reconnaissance report.
  - Professional services for AMEC for drilling two borings & preparing a final design for the repair (Cost to be determined)
2. *Marine View Drive (NW corner of bridge) - Hillside saturation & storm pipe disconnection - \$40,000 to \$60,000*
  - 250' of HDPE pipe
  - 60" diameter Type II catch basin
  - 60' of ADS pipe (replace the culvert below the trail)
  - Use of generator, pumps & hoses to divert the flows to creek directly
  - Excavator, dump trucks to remove & haul debris away
  - Professional services for AMEC for on-call services & reconnaissance report
  - Interim repair work to stabilize upper slide (Costs to be determined)
  - AMEC Professional services for design & inspecting interim repair (Costs to be determined)
  - AMEC Professional services for preparing design of permanent slide repair (Cost to be determined)

He concluded by noting that an estimated cost to do permanent repair is around \$250,000 to \$300,000 for each project. He advised there is a possibility that the City may qualify for what is termed 'Highway Federal Emergency Relief Funding'. He noted this is most likely for the Marine View Drive problem as it is a Federal aided route. However, Des Moines Memorial Drive is questionable and we may look for FEMA funds.

Mayor Pro Tem Thomasson advised that he supports the resolution and the emergency work that was undertaken. However, he questioned the charge, in the case of the Des Moines Memorial Drive slide, whether there is anything that is actually related to Surface Water Management, as it was an embankment failure, not storm drainage failure. He felt that this slide should be charged to either the Street Fund or the self insurance fund.

**MOTION** was made by Councilmember White, seconded by Councilmember Pina, to adopt Draft Resolution No. 06-615 accepting findings that an emergency existed on January 12, 2006, which justified the City's entering into two emergency contracts authorized by the City Manager.

City Manager Piasecki advised that he will work with staff to determine exactly which funds will be charged for the actual expenses and he will bring a report back to Council when we have the contracts for final repairs.

**VOTE ON MOTION:** Motion passed unanimously.

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the regular minutes of December 5, 2005.
2. 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 #102497 through #102697 & electronic fund transfers in the total amount of \$1,042,134.05

Payroll fund transfers in the total amount of \$344,129.16

3. Motion is to approve payment of registration and travel expenses in the approximate amount of ~~\$1,300~~ \$700.00 for Councilmember White's attendance at the National League of Cities Conference in Washington, DC, March 11-15, 2006.
4. Motion is to approve amending the agreement with Waldron Resources to continue the contract for the Acting City Transportation Manager, and for the City Manager to sign said agreement substantially in the form as submitted.
5. Motion is to confirm Mayor Sheckler's appointments to the Citizens Ad Hoc Advisory Committee for the Marina Rate Study Project. The appointments are: Ray Valpey, representing Three Tree Point Yacht Club; with alternate Tim McSahe; Hart Anderson representing the Des Moines Marina Association; Doug Andrews and Tom Wilke at large tenants; Arlene Knight at large community member, and George Faler and Warren Elfstrom representing the Des Moines Yacht Club.

City Manager Piasecki advised that Councilmember White has made other arrangements for hotel accommodations and therefore has requested that the dollar amount in Consent Item #3 be reduced to \$700.00.

In regards to Consent Item #5, Mayor Pro Tem Thomasson noted that in reading the comments from the individuals appointed to the Ad Hoc Committee, that they want a lot more to say about it than the limited charge of the Committee was. He advised that a preamble to the group needs to be said about what the limits of their charge is.

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

### CONTINUED PUBLIC HEARING

#### Shoreline Master Program Update

Mayor Sheckler noted the hearing was previously opened. He inquired three times as to whether anyone wished to address the Council on the item. There was no response.

Development Services Manager Ruth explained that this will be a rather lengthy process so he will present it in chunks and allow the public to comment as the hearing progresses. He reminded Council that as topics of discussion are concluded, the public hearing should remain open.

City Manager Piasecki recommended Council review two or three sections per meeting, call for speakers, allow for staff response and Council discussions, and accept sections by motion.

Development Services Manager Ruth reminded Council that the Legislature passed a bill requiring all local jurisdictions to change their Shoreline Master Programs and are very descriptive on how to proceed and must conform to the guidelines as established by the Washington State Department of Ecology. He advised that the City has accepted a grant to fund our update and we agreed to be an early adopter of the Program. He informed Council that most of the details involved in tonight's presentation were prepared, and will be delivered, by the City's consultant, Kent Hale of Adolfson and Associates.

City Attorney Marousek reiterated her statement from the January 12<sup>th</sup> Council meeting noting Councilmember Pina served as a Planning Agency Member and has reviewed this 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.

Development Services Manager Ruth informed Council that the City's current Shoreline Master Program is now 18 years old and we must follow the Municipal Code to amend it. Which means this is a legislative matter. He noted that the Planning Agency has reviewed the matter and the draft before Council tonight is a reflection of their work and recommendations.

Kent Hale, Planner with Adolfson and Associates, proceeded with a power point presentation with a project overview, how it relates to other City planning programs and regulations, review of public process to date, and then reviewed other key items as follows:

- *Washington Shoreline Management Act (SMA)* - Passed by the State in 1971 to maintain areas in the shoreline for water-dependent uses, provides public access to shorelines and goals and policies for protecting the environmental resource that is part of the shoreline. The Act is administered by the Dept. of Ecology who established guidelines for permanent review and for development of local master programs.
- *Where Does the SMA Apply* - Generally 200' landward of the ordinary high water mark for marine & freshwater shorelines of the state. In Des Moines that includes basically just Puget Sound Shorelines. None of the streams are regulated under the SMA. It does include marine bluffs, beaches, estuaries, as well as some of the inter-tidal habitat areas.
- *Why Update Des Moines SMP* - Original Des Moines SMP was adopted in 1988 and the Puget Sound Shoreline has doubled since then with annexations.
- *Shoreline Master Program Components* - Inventory & Characterization, goals & policies, shoreline environment designations, Development Standards & use regulations, restoration plan and administrative procedures.
- *Key Findings* -
  - Majority of shoreline development is single-family residential
  - Great public access to the shoreline
  - Landscape/erosion/slope stability issues
  - Fish/wildlife habitat
  - Shoreline modified by Marina, riprap & residential bulkheads
  - Upland modified by urban/suburban development
- *Key Changes* -

- Environment Designations
- Critical Areas
- Prohibited Uses
- Over water structures
- Bulkheads
- Restoration Planning

Mr. Hale concluded his presentation by stating the next steps in the process are to wrap up Council review, needs to go through the SEPA process, Dept. of Ecology review and approval, formal adoption by the City Council and the public process is ongoing.

8:59 p.m. Mayor Sheckler called for a 10 minute break.

Mayor Sheckler called three time for any public speakers. There was no response. He requested Councilmembers ask questions of staff.

Mayor Pro Tem Thomasson referenced Section 1.5, and stated that he feels the items in the Administrative Procedures should be printed inside the Des Moines Municipal Code. In regards to the Policy issues, he felt that they are not focusing on the right subject. He also noted he has some mapping issues with the Marina and whether the breakwater is or isn't classified.

Councilmember Pina remarked that one of the State's requirements is no net loss, which means you may want to improve if an opportunity exists, but you are not required to. You are required to not make things worse.

**MOTION** was made by Mayor Sheckler, seconded by Councilmember White, to continue the public hearing to the February 2<sup>nd</sup> Study Session.

In terms of the Shoreline designations, Mayor Pro Tem Thomasson noted it seems to make a difference whether it is high bank or low bank and questioned whether that should not be part of the designation and the rules. He also called attention to removing the armoring at the Beach Park and questioned what effect this would have on the high bank and how do we balance the shoreline protection and the fish element, versus the property value. He further questioned what liabilities the City may be setting itself up for.

**VOTE ON MOTION:** Motion passed unanimously.

## **OLD BUSINESS**

### **Appointments: South County Transportation Board (SCTB) Representative and Suburban Cities Association's Public Issues Committee Representative and Alternate**

Mayor Sheckler questioned whether any Councilmember is interested in appointment.

Mayor Pro Tem Thomasson noted he is very interested in the SCTB but due his work schedule it would be next to impossible. He advised he may consider being the Alternate to the Public Issues Committee.

Councilmember Sherman advised that Public Issues Committee meets once a month on Wednesday evenings. Membership consists of 37 members from 37 cities, except Seattle and

Bellevue. Each city may bring an issue that they wish Suburban Cities to address, those issues that are approved by majority vote then go to the Executive Board who determines which policies will be undertaken.

Councilmember Sherman noted that SCTB meets the 3<sup>rd</sup> Tuesday of each month from 9 a.m. to 11 a.m. at the City of SeaTac.

It was determined that appointments for these positions would be addressed at the February 2<sup>nd</sup> Study Session once Council Committee appointments are announced.

## NEW BUSINESS

### Regional Commission on Airport Affairs Contract (RCAA)

City Manager Piasecki introduced Larry Corvari, President of RCAA.

Mr. Corvari noted that under the proposed contract RCAA would be paying very close attention to problems associated with construction of the 3<sup>rd</sup> runway and will stay on top of discussions between the Airport, Department of Ecology and contractors to help eliminate the problems. He advised that the proposed contract would cost the City \$10,000 annually, in quarterly installments, plus \$10,000 for special projects.

City Manager Piasecki clarified this as a base contract of \$10,000 and any special activities would be done as an amendment.

Mr. Corvari reviewed some of the special projects that RCAA is monitoring. He advised that they raised over 100 thousand dollars in private funds to help in the matter of the revised general water-pollution permit for the Port regarding streams, wetlands, and natural habitat of the cities and their residents impacted by the Airport. He noted that Sea-Tac Airport impacts do not stop with water pollution so they are closely monitoring potential serious problems ahead, along with all current permits and the restrictions that were placed on those permits.

**MOTION** was made by Mayor Sheckler, seconded by Councilmember White, to enter into an agreement for services with the Regional Commission on Airport Affairs for services for the calendar year of 2006, \$10,000 basic contract with a \$10,000 maximum for special projects, with the funds coming from the Airport Defense Fund, and authorize the City Manager to sign the agreement substantially in the form as submitted.

Upon questioning, Mr. Corvari advised that the total budget last year for RCAA was \$40,000. This year it is \$20,000 from Normandy Park, and they are approaching Burien to also enter into an agreement.

Councilmember Sherman noted that he considers the work RCAA is doing as very critical in monitoring environmental concerns due to the 3<sup>rd</sup> runway and other Airport operational issues.

Councilmember Pina felt that partnering with the City of Normandy Park and possibly Burien, is a fantastic way to keep a watch on the Airport, which neither could afford to do independently.

**VOTE ON MOTION:** Motion passed unanimously.

Contract for Lobbying Services with Smith Alling Lane

City Manager Piasecki stated that the purpose of this agenda item is to present and recommend a proposed contract with Smith Alling Lane, P.S., for federal government lobbying services for the time period of February 1, 2006 to December 31, 2006. He noted that the City has not actively worked with the Washington State Congressional delegation to obtain funds for various capital projects and programs. He informed Council that most of the cities surrounding Des Moines do have contracts for lobbying services and have been very successful. He advised that in 2005 through the efforts of Councilmember White, and her contact with Dale Learn, we obtained an appropriation for the Beach Park. He noted Mr. Learn at that time was an aid to Senator Murray and now works for Smith Alling Lane. He reviewed the two options that Mr. Learn has provided:

Option 1. Help us with our requests, get them to the congressional offices, making sure the requests are put together properly. He also will coordinate phone calls and visits.  
Cost = \$5,416.67 per month plus expenses (15% of the contract price).

Option 2. Full deal - tracking legislation, various other issues we may be concerned about. Cost = \$6,666.67 per month plus expenses (15% of the contract price).

City Manager Piasecki stated that he is recommending Option 1 and focus on trying to get earmarked appropriations in the Federal government budget. He reviewed the list of the type of projects. He noted that Mr. Learn recommends two projects, at the most three. He further advised that the proposal before Council does include some funds to send three individuals from the City to Washington, DC in order to directly lobby the Washington State delegation. The total amount needed for this year is \$73,100. Because this amount will come from the General Fund, five votes in the affirmative are needed as this will require a Budget amendment.

Mayor Sheckler noted, and Councilmember White confirmed, that Mr. Learn is from Des Moines and he has agreed to reduce his fees. Councilmember White further commented that Mr. Learn has glowing recommendations from the cities of Federal Way and Puyallup, among others.

Mayor Sheckler reported that he checked with other cities and Mr. Learn comes highly recommended.

Mayor Pro Tem Thomasson remarked that balancing the budget has been difficult for the last two years, noting that the amount of money we are talking about could pay for a Police Officer. Also we are talking about spending operating dollars to get capital dollars, as opposed to being able to spend REET monies to leverage this work to get more construction dollars. He stated that it amazes him that Council goes through a last minute effort to cut \$200,000 out of the budget and less than a month later, we talking about authorizing \$73,000 that wasn't even in the budget deliberations as to something we should be doing. He advised this is no way he can support this idea.

Mayor Sheckler acknowledged Mayor Pro Tem Thomasson's thought, but felt this should be looked at as an investment, not necessarily just an expense.

Councilmember Sherman felt that it is a sad comment that we have to spend money for a lobbyist to get money from the Federal Government. He wondered if the City wouldn't get more 'bang for the buck' if we hired another employee for planning, building and public works, who might help with permitting processes and devote half their time to obtaining Federal grants.

Councilmember White noted that most cities do use a lobbyist and it works effectively, not just for getting Federal dollars, but it helps with the communications with our State legislators in obtaining funding from the State. While the City could hire an individual she felt this is a broader way of achieving goals. She stated the City needs to take care of what it has. She reminded Council that no one wanted to use Councilmanic bonds and we do need to take action to move forward and she feels this is a great opportunity for the City. She advised that in the last four years she has learned that other cities accomplish goals by using a very good lobbyist.

Councilmember Scott acknowledged that she would not normally vote for spending money that did not need to be spent, however, she feels this idea has a lot of merit. She noted Mr. Learn's profession is getting budget money out of budgets that don't have funds earmarked for us. She felt the list of who he has worked for and the return he has brought them is astonishing. She noted that the City of Auburn paid him \$226,000, so obviously he is offering to do this for Des Moines at a greatly discounted rate. She sees this as an investment and that the City needs to be able to obtain money to do some things that we can't afford to get done, that we have to get done. Therefore she supports approval.

Councilmember Kaplan advised that generally he shares Mayor Pro Tem Thomasson's concerns, but believes this is a one time expenditure that obtains one time monies that will allow the City to complete some things and that will allow the City to move forward in terms of economic development strategies, creating a historic district at the Beach Park and is a step forward as it will free up funds that otherwise would be dedicated out of the CIP or Municipal Improvement Fund. He sees this as an investment and feels it worth a one time shot to find out. He felt that any funds we can get from the Federal Government is also an advantage to the City's residents, who are paying taxes to the Federal Government, to get their money back. He felt this will help to provide the funds necessary to make the investments in improvements that will put the City on a sound financial basis in the future and we should do it.

**MOTION** was made by Councilmember Kaplan, seconded by Councilmember White, to authorize the City Manager to sign the contract with Smith Alling Lane, for federal government lobbying services utilizing option 1 substantially in the form as submitted.

Councilmember Sherman stated he would like to know what will be the priority projects they will be hired to do before we approve a contract.

Councilmember Scott felt Council should not designate projects until we have a discussion with Mr. Learn about where he feels he can benefit the City the most. She noted Council should not try to second guess what he knows best.

City Manager Piasecki informed Council that he has discussed the City's projects with Mr. Learn and he does have opinions as to which ones would have the greater chance of succeeding. However, he stressed the bottom line is, that it is the Council that decides what are the top priority projects. Mr. Learn will make recommendations, but Council makes the final decision.

The projects for Council's consideration listed in the packet were:

1. Beach Park Historic District Rehabilitation
2. Des Moines Creek trail-Waterfront to Downtown Access
3. Waterfront & Airport Security

4. 24<sup>th</sup> Ave/216<sup>th</sup> Street improvements to support Port of Seattle redevelopment of buyout area
5. Guest Moorage Expansion
6. South Sound Passenger Ferry Service Study
7. Passenger Ferry Service Facilities

Mayor Pro Tem Thomasson objected to most of the items listed after number 2, as he felt these had not been discussed with Council. In regards to item 4 he spoke against seeking any funding for improvements that the Port may be required to take care of.

Councilmember Kaplan felt even if funds were only obtained for one of the items that Council has historically agreed upon as priorities, the City comes out ahead. He felt this is an opportunity Council needs to act upon and if it does not work out, we are only committed for this year.

Councilmember White stated this is an opportunity to show citizens that Council is serious about doing good things for the City.

MOTION to amend the main motion was made by Councilmember Sherman that items 1, 2 and 4 be the projects listed to seek federal government appropriations. Motion FAILED for lack of second.

Councilmember Pina spoke against the amendment as he felt Council should not commit themselves at this time.

VOTE ON MAIN MOTION: Motion passed 5 to 2 with Councilmember Sherman and Mayor Pro Tem Thomasson opposed.

Mayor Sheckler commented that Council will look at prioritizing funding projects at a later meeting.

MOTION was made by Mayor Sheckler, seconded by Councilmember Pina, to direct the City Manager to include a transfer of \$73,100 from the fund balance of the General Fund distributed to appropriate line items in the Legislative and Executive budgets in the next budget amendment ordinance presented to the City Council for approval. Motion passed 5 to 2 with Councilmember Sherman and Mayor Pro Tem Thomasson opposed.

#### NEXT MEETING DATES

Mayor Sheckler advised that the next meeting will be a retreat, Saturday, Jan. 28<sup>th</sup> at Activity Center beginning at 9 a.m., and then a study session on February 2<sup>nd</sup>.

#### ADJOURNMENT

At 10:25 p.m. Mayor Sheckler declared the meeting adjourned.

Respectfully submitted,

Denis Staab  
City Clerk