

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

February 7, 2002

The regular study session of the Des Moines City Council was called to order at 7:45 p.m. by Mayor Wasson in the Council Chambers, 21630 11th Avenue South, Suite B.

PLEDGE OF ALLEGIANCE to the Flag was led by Mayor Pro Tem Benjamin.

ROLL CALL – Present: Mayor Don Wasson, Mayor Pro Tem Richard Benjamin, Councilmembers Gary Petersen, Bob Sheckler (left at 8:10 p.m.), Maggie Steenrod, Scott Thomasson, and Susan White. Also present were City Manager Bob Olander, Assistant City Manager Tony Piasecki, Assistant City Attorney Linda Marousek, Chief of Police Don Obermiller and Deputy City Clerk Angela Chaufy.

CONSENT CALENDAR was read by Deputy City Clerk Chaufy.

1. Motion is to authorize the City Manager to approve all vouchers for payment of the following claims during the period of January 25, 2002 through February 14, 2002:
 - a. All vouchers for payment of payroll checks, including Marina payroll, and
 - b. All vouchers for payment of claims and Marina checks, provided that all vouchers and checks approved by the City Manager in accordance with this motion shall be presented at the February 28, 2002 meeting.
2. Motion is to approve the following Pacific Highway South Project Property Purchases:
 - a. 999 square feet of land with improvements from Paul W. and Marilyn R. Hall, in the amount of \$39,698 plus closing costs,
 - b. 246 square feet of land with improvements from J. Michael Woldman, in the amount of \$3,727 plus closing costs,
 - c. 1,015 square feet of land with improvements from NW Realty, in the amount of \$21,779 plus closing costs,and to further authorize the City Manager to sign the Purchase and Sale Agreements substantially in the form as submitted.
3. Motion is to approve the Boating Facilities Program Grant Agreement with the Interagency Committee for Outdoor Recreation and authorize the City Manager to sign the agreement substantially in the form as approved by the City Attorney.

Councilmembers Petersen and Steenrod recused themselves from Item No. 2.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sheckler and passed unanimously to approve the consent calendar.

DISCUSSION ITEMS

Appointment of Council Representatives

City Manager Olander briefly described the primary purposes of South County Transportation Board, SR 509 Executive Committee, Airport Communities Coalition Executive Board, Water Resource Inventory Area 9 Management Committee, and Senior Services Advisory Committee. He then explained that Councilmembers also serve as informal liaison to the Planning Agency and Human Services Advisory Board.

MOTION was made by Mayor Wasson, seconded by Mayor Pro Tem Benjamin, and passed unanimously to appoint a Council liaison to the Chamber of Commerce.

South County Transportation Board

MOTION was made by Mayor Wasson, seconded by Mayor Pro Tem Benjamin, and passed unanimously to appoint Councilmember **White** as the City of Des Moines representative to the South County Transportation Board and the Public Works Director as the alternate.

SR509 Executive Committee

MOTION was made by Mayor Pro Tem Benjamin, seconded by Mayor Wasson, and passed unanimously to appoint Councilmember **Petersen** as the City of Des Moines representative to the SR 509 Executive Committee and the Public Works Director as the alternate.

Airport Communities Coalition Executive Board

MOTION was made by Councilmember Thomasson and seconded by Councilmember White to nominate Councilmember Sheckler to serve as representative to the Airport Communities Coalition Executive Board.

MOTION was made by Councilmember Steenrod and seconded by Mayor Pro Tem Benjamin to nominate Mayor Wasson to serve as representative to the Airport Communities Coalition Executive Board.

Councilmember Steenrod said that Councilmember Sheckler had done a fantastic job advocating the cause of the Airport Communities Coalition and opposing the third runway. She felt that the committee now needed someone to provide a strong review of the budget and to ensure that the committee was held accountable for all dollars spent.

VOTE

- Councilmembers Sheckler, Thomasson, and White voted for Councilmember Sheckler.
- Mayor Wasson, Mayor Pro Tem Benjamin, and Councilmembers Petersen and Steenrod voted for Mayor Wasson.

Mayor **Wasson** was appointed to serve as the City of Des Moines representative to the Airport Communities Coalition Executive Board.

MOTION was made by Mayor Wasson and seconded by Councilmember Petersen to appoint Mayor Pro Tem Benjamin as alternate to the Airport Communities Coalition Executive Board.

MOTION was made by Councilmember Thomasson and seconded by Councilmember White to appoint Councilmember Sheckler as alternate to the Airport Communities Coalition Executive Board.

VOTE

- Mayor Wasson, Mayor Pro Tem Benjamin, and Councilmember Petersen voted for Mayor Pro Tem Benjamin.
- Councilmembers Sheckler, Steenrod, Thomasson, and White voted for Councilmember Sheckler.

Councilmember **Sheckler** was appointed to serve as the City of Des Moines alternate to the Airport Communities Coalition Executive Board.

Water Resource Inventory Area 9 Management Committee

MOTION was made by Councilmember Sheckler, seconded by Councilmember Steenrod, and passed unanimously to appoint Councilmember **Thomasson** as the City of Des Moines representative to the Water Resource Inventory Area 9 Management Committee.

City Manager Olander confirmed that Council wished Assistant City Engineer Reinhold to serve as alternate to the committee.

Senior Services Advisory Committee

MOTION was made by Councilmember Petersen and seconded by Councilmember Benjamin to appoint Councilmember Steenrod as the City Council member of the Senior Services Advisory Committee.

MOTION was made by Councilmember White and seconded by Councilmember Thomasson to appoint Councilmember White as the City Council member of the Senior Services Advisory Committee.

VOTE

- Mayor Wasson and Councilmember Petersen voted for Councilmember Steenrod.
- Mayor Pro Tem Benjamin and Councilmembers Sheckler, Steenrod, Thomasson, and White voted for Councilmember White.

Councilmember **White** was appointed to serve as the City Council member of the Senior Services Advisory Committee.

Planning Agency

MOTION was made by Mayor Wasson and seconded by Councilmember Petersen to appoint Mayor Pro Tem Benjamin as Planning Agency Liaison.

In response to Councilmember Steenrod's question, City Manager Olander said that being a member of the Chamber of Commerce would not create a conflict of interest with serving as liaison to the Planning Agency. He said serving as a Chamber Board member could, however, create a conflict of interest for the Chamber of Commerce liaison.

Mayor Pro Tem Benjamin said that he was a member of the Chamber of Commerce.

MOTION was made by Councilmember Steenrod and seconded by Mayor Wasson to appoint Councilmember Steenrod as Planning Agency Liaison.

VOTE

- Mayor Wasson and Councilmembers Thomasson and White voted for Councilmember Benjamin.

- Mayor Pro Tem Benjamin and Councilmembers Petersen, Sheckler, and Steenrod voted for Councilmember Steenrod.

Councilmember **Steenrod** was appointed to the Planning Agency.

Human Services Advisory Board

MOTION was made by Councilmember White and seconded by Councilmember Sheckler to appoint Councilmember White as liaison to the Human Services Advisory Board.

MOTION was made by Mayor Pro Tem Benjamin and seconded by Mayor Wasson to appoint Mayor Pro Tem Benjamin as liaison to the Human Services Advisory Board.

VOTE

- Mayor Wasson and Councilmembers Petersen, Sheckler, Steenrod, Thomasson and White voted for Councilmember White.
- Mayor Pro Tem Benjamin voted for himself.

Councilmember **White** was appointed to the Human Services Advisory Board.

Chamber of Commerce

MOTION was made by Mayor Pro Tem Benjamin and seconded by Councilmember Petersen to appoint Mayor Pro Tem **Benjamin** as liaison to the Chamber of Commerce.

VOTE ON MOTION: Motion passed, 6 – 1, with Councilmember Sheckler opposed.

At 8:10 p.m., Councilmember Sheckler left the meeting.

Fireworks

Assistant City Manager Piasecki informed Council that King County Fire District No. 26 had requested that this issue be brought before Council for discussion. He explained that the sale of common fireworks was legal in Des Moines during specific days and their discharge was legal during specific hours on July 4th. Assistant City Manager Piasecki noted that Council had previously discussed the possibility of banning fireworks in 1993 and 1999. He said that any change to the fireworks regulations would required a one year waiting period before the amendment became effective. Assistant City Manager Piasecki introduced Fire Chief Jim Polhamus.

Fire Chief Polhamus displayed examples of lawful and unlawful fireworks. He stressed the difficulty in determining the legality of the fireworks due to their similar appearance. He also noted that the fireworks were often repackaged and renamed each year. This made it difficult for enforcement officials to compile a reliable list of legal fireworks. He said that the public frequently told the Fire Department that if the City allowed the sale of fireworks they should also provide a place for their discharge. Fire Chief Polhamous felt that the current ordinance was difficult to enforce and sent an inconsistent message regarding fire and explosive devices.

Chief of Police Obermiller informed Council that the police experience an increase in calls as soon as fireworks go on sale. He noted that 75 fireworks related calls were received last year. In order to respond to the increased call volume, the Police Department schedules a full team of

additional police officers to respond to fireworks related calls only. Chief Obermiller said that the public was often frustrated by the police officers' lack of ability to deal with fireworks related problems as the officers rarely witnessed the discharge of any illegal fireworks. Due to the similar appearance of legal and illegal fireworks, Chief Obermiller noted that the officers have at times confiscated legal fireworks by mistake. Chief Obermiller noted that several surrounding cities had banned the discharge of all fireworks. He said that the clean up afterwards also had a significant impact on the Public Works and Parks departments.

Councilmember White felt that it was often safer to discharge fireworks at the beach than in residential areas.

Assistant City Manager Piasecki explained the liability issues involved with designating a common area for the discharge of fireworks.

Councilmember Steenrod counseled Council to not take extreme action by banning the possession of fireworks.

Councilmember Thomasson stated that he and his family have enjoyed discharging fireworks on July 4th. He felt that it was unfortunate that some individuals did not respect the rights of others but chose to discharge illegal fireworks. He felt that it would be sad to lose fireworks as part of the 4th of July celebration.

Mayor Pro Tem Benjamin and Councilmember White voiced support for Councilmember Thomasson's comments.

Mayor Pro Tem Benjamin felt that Council had a responsibility to consider the issue.

Councilmember Steenrod asked the Fire Department to provide data regarding the number of fireworks related calls received in 2001 so as to determine whether the public fireworks display had reduced the number of calls for service.

City Manager Olander said that the information would be provided in memo form. No additional action would be taken until Council provided further direction.

Conflict of Interest Response

Councilmember Petersen read and distributed his letter to Council and the City Manager stating that the State Auditor had informed him that there would be no conflict of interest between his work and his Council position if he took the following actions:

1. He would no longer charge the City of Des Moines for any towing services for city vehicles.
2. He would recuse himself from any vote on the City Council that has anything to do with towing services.
3. He asks that the City Attorney inform him prior to any council action if there is any conflict of interest regarding the legislation the council is addressing.
4. He informs every City of Des Moines department head of his actions by sending them a copy of the letter.

Councilmember Petersen said that the conflict of interest issue had been resolved and that he was looking forward to serving the citizens of Des Moines for the next four years.

At 8:54 p.m., Mayor Wasson declared a ten-minute break.

2002 Legislative Policies and Positions

City Manager Olander explained that adopted legislative policies and positions served as direction and support for Council and staff in testifying and negotiating positions on behalf of the City. He stressed the importance of Council and staff to clearly follow the policy directives of the full Council when representing the City at state or regional meetings. He then led Council through a review of the proposed Intergovernmental Relations Policies and Positions.

During the review, Council concurred that the following amendments should be made to the 2001 Intergovernmental Relations Policies and Positions:

- Replace Section B.1.c language with new language – “Any King County budget or service reductions should treat residents of incorporated and unincorporated areas equally.”
- Add new Section B.1.d.6 – “Institute the planned rapid transit route along Pacific Highway South to and from the Tukwila Sounder rail station.”
- Revise Section B.1.e – “The City will participate in the WRIA9 water quality improvement process. Any new sources of revenue from Des Moines residents to support projects should be subject to City Council review and authorization.”
- Add new Section B.2.y – “The City supports legislation to extend the deadline for GMA critical areas updates to 2004-2007.”
- Replace Section B.4.d language with new language – “The City supports efforts to reduce King County jail costs and/or to provide lower cost jail services in Yakima, Okanogan, or other counties.”
- Delete Section B.4.e.
- Revise previous Section B.4.i – “The City supports completion of Sound Transit RTA routing to South 200th Street in Phase I. Phase II should be routed along I-5 adjacent to Des Moines with minimal disruption to Pacific Ridge.

Council also concurred that staff should develop policy language regarding rights-of-way use by public utilities (i.e. – Puget Sound Energy).

City Manager Olander asked Council to advise him of any other desired legislative policies.

Wescot Company Application

City Manager Olander informed Council that Hank Hopkins of Wescot Company had previously requested permits from the City of Des Moines to construct a conveyor belt in order to provide

fill dirt for the third runway project. In response, the City had completed the environmental impact statement (EIS) and the Comprehensive Plan amendment process. At the time, Council denied the request for a Comprehensive Plan amendment. Wescot Company subsequently appealed the denial to the Growth Management Board. A settlement agreement was then reached between the City of Des Moines and Wescot Company. The settlement agreement allowed Wescot Company to use the previously performed EIS data if no new significant changes had occurred and if the new application for the Comprehensive Plan amendment was filed within a certain period. The City also agreed to process Wescot Company's Comprehensive Plan Amendment application within sixty days. City Manager Olander said that Mr. Hopkins had submitted a letter to Council indicating that he wished to initiate the process outlined by the settlement agreement but that he did not want a Comprehensive Plan Amendment. City Manager Olander said that he would attempt to arrange a meeting with the City Attorney and Mr. Hopkins to determine the intent of the letter.

In response to Council's questioning, City Manager Olander explained that the Comprehensive Plan was mandated by the Growth Management Act. A jurisdiction's zoning code, development code, etc. then flowed from the Comprehensive Plan. The various city codes were required to be consistent with the Comprehensive Plan. Wescot Company's original application had requested an amendment to the Comprehensive Plan which would allow conveyor belts in Open Spaces.

Council briefly discussed the possible scenarios if the Port of Seattle's 401 and 404 permits were approved or denied.

Councilmember Thomasson said that a biological assessment might be necessary as salmon was now listed as an endangered species. He also felt that any such application would need to be discussed at two levels: 1) as a legislative regulating body and 2) as a landowner.

Mayor Wasson said that the City had a chance to realize mitigation fees that could be beneficial to the City.

MOTION was made by Mayor Wasson to direct administration to work with Mr. Hopkins on Monday morning to get the issue clarified and to get it in process if possible.

Motion died for lack of a second.

Councilmember Thomasson suggested that the previous staff report regarding the requested Comprehensive Plan amendment be distributed to Council.

At 10:29 p.m., **motion** was made by Councilmember Steenrod and seconded by Mayor Pro Tem Benjamin to extend the meeting five minutes.

VOTE ON MOTION: Motion passed, 5 – 1, with Councilmember White opposed.

City Manager Olander said that he would arrange a meeting with Mr. Hopkins to clarify the intent of the letter and explain the required process. A schedule, if necessary, would be developed at that time. City Manager Olander cautioned Council to not participate in ex parte communication with Mr. Hopkins that could potentially disqualify them from participation in the Comprehensive Plan Amendment process.

At 10:34 p.m., **motion** was made by Mayor Pro Tem Benjamin and seconded by Councilmember Steenrod to extend the meeting five minutes.

VOTE ON MOTION: 4 – Yes. 2 – No (Councilmembers Thomasson and White). Motion failed due to a lack of approval of three fourths of the Councilmembers present.

NEXT MEETING DATE

February 21, 2002, 6:00 p.m. Study Session

ADJOURNMENT

Meeting was expired at 10:35 p.m.

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk