

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

February 21, 2002

The regular study session of the Des Moines City Council was called to order by Mayor Wasson at 6:02 p.m. in the Council Chambers, 21630 11th Avenue South, Suite B.

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

ROLL CALL - Present: Mayor Don Wasson, Mayor Pro Tem Richard Benjamin, Councilmembers Gary Petersen, Maggie Steenrod, Scott Thomasson and Susan White. Also present were City Manager Bob Olander, Assistant City Manager Tony Piasecki, City Attorney Gary McLean, Community Development Director Judith Kilgore and City Clerk Denis Staab. Absent: Councilmember Bob Sheckler.

MOTION was made by Councilmember Thomasson, seconded by Councilmember White and passed unanimously to excuse Councilmember Sheckler.

Olympic Torch Run - Video

A short video was played showing the Olympic Torch Run through the City of Des Moines that had been filmed by KING TV.

City Manager Olander commented that Des Moines had larger more demonstrative crowds than other Washington cities, including Seattle. He stated that he is proud of the strong community spirit that was displayed. He thanked all the participants as well as various City departments, and various local organizations for their help in making the event so special and successful.

Congressional Update - Congressman Adam Smith

Congressman Smith informed Council that the balancing of the Federal budget is a significant challenge, in particular he cited the need for additional funding for homeland security and the military. He further advised that he is aware of local issues of concern such as transportation. He noted that the state needs to get solid transportation plans firmed as soon as possible in order to be able to obtain Federal matching funds for local projects. He stated that the State needs to spend its dollars wisely to be efficient and effective.

Congressman Smith continued by also noting the following issues:

- National Marine Fisheries Service, Native Species Act - Currently long wait to obtain permits. Extremely difficult to build which hurts especially with current economic woes. Cities do need protection, but need clearer rules.
- Highline School District Bond - Critically important, school buildings are neglected, old and falling apart, with serious jet noise impacts. If bond passes F.A.A. and the Port of Seattle will each add \$50 million. Schools are an important and make an impact on the people wishing to live in certain communities.

In conclusion, Congressman Smith urged citizen support and approval of the Highline School District Bond issue.

Upon questioning by Mayor Pro Tem Benjamin, Congressman Smith announced a town hall meeting will be held regarding upcoming budget issues this Saturday at 9:30 a.m. at Highline Community College, building 2.

Councilmember Thomasson requested that Congressman Smith be furnished with an updated copy of Des Moines City Council Legislative Agenda. City Manager Olander replied that he would see that Congressman Smith received a copy of the Federal level issues that have been identified by Council.

Draft Resolution No. 02-020 Support Highline School District Capital Facilities Improvement Bond

Councilmember White spoke in support of the Council's collective support of the bond issue as it is an important community issue.

Councilmember Steenrod stated that although she is in favor of the schools, she expressed a concern with an elected body taking any stance on a ballot issue. She felt that citizens have a right to vote the way they want to. She noted that she personally does not like endorsements as endorsements often come with a price. Therefore, she is not in support of the resolution.

MOTION was made by Councilmember White, seconded by Councilmember Thomasson to adopt Draft Resolution No. 02-020, supporting the Highline School District's Proposition No. 1, a capital facilities improvement bond issue for schools in the amount of \$189,500,000.

Mayor Pro Tem Benjamin stated that he is a supporter of teachers and students and feels strongly about quality of education, however he is opposed to the City Council as a whole taking a stand on the issue.

Councilmember Thomasson noted that historically he has been reluctant to endorse ballot issues as a Council, but the Council has agreed to do this in the past. He noted that the Council must look for the benefits to the City as a whole. He advised that he will support the resolution while acknowledging it is clearly up to individuals to make their own choice. He felt a new high school facility is vital to the City.

Councilmember Petersen advised that he will support the resolution noting that quality schools are vital to the community.

VOTE ON MOTION: Motion passed 4 to 2 with Councilmember Steenrod and Mayor Pro Tem Benjamin voting NO.

Comprehensive Plan Amendment & Permit Schedule - Conveyor Belt Project

Community Development Director Kilgore noted that as staff, and a planning professional, she would strongly encourage the Council to provide a clear record for this project, regardless of what the final decision may be. She advised that this would begin with amendments to the Comprehensive Plan and the Shoreline Master Plan. She stated that by going through the amendment process three things will be accomplished:

1. It is environmentally prudent.
2. Ensures that future actions associated with the project are clearly consistent with the Comprehensive Plan and the Shoreline Management Plan.
3. The Master Plans documents and amendments, and the adoption of the project level EIS are legislative actions, therefore the Council is afforded greater discretion in adopting

appropriate mitigation measures and conditions of approval for a project. The Unclassified Use Permit would be a quasi-judicial action.

She advised that the current environmental documents prepared by the applicant are very good and therefore will only require a small amount of work so any process for comp plan amendments should go quickly.

Community Development Director Kilgore referenced the Wescot Schedule furnished in Council packets. She noted that out of the eleven permits that the Wescot Company needs to start the project, excluding the EIS, only four are under the City of Des Moines' control. She noted some time lines cannot be changed, such as the 30-60 day review by the Dept. of Ecology, 25 days for SEPA review, public hearing notices, etc. She further advised this schedule does not include any potential appeals being filed.

In regards to appeals, Community Development Director Kilgore noted the following would apply:

- Comprehensive Plan Amendments, SEPA determinations, can be appealed.
- Unclassified Use Permit appealable to either Superior Court or if it involved the Comprehensive Plan, the Growth Management Hearings Board.
- Shoreline Management Plan amendments appealable to the Shoreline Hearings Board.
- Zoning decision would be appealable to the Superior Court.

In response to Councilmember Steenrod's question on how often the City's Comprehensive Plan is updated, Community Development Director Kilgore advised that this year there will be a major update as mandated by the State of Washington. The City may make annual amendments to the Comp Plan as necessary, however in the Wescot settlement agreement, one of the issues was that we would not have to wait for the normal time line, that these amendments could be processed as soon as they are ready to be.

Community Development Director noted that the City's usual schedule for Comprehensive Plan amendments is that all proposed amendments must be to the City by June 30th. Any environmental work, etc. that needs to be completed will be done and then the matter is brought to Council sometime in the fourth quarter.

Councilmember White commented that since this whole issue has been thoroughly reviewed in the past, she does not see why the City would want to reconsider it now.

Councilmember Thomasson reviewed the history of this issue, noting that Wescot had brought proposed changes to the Comprehensive Plan to fit with their project, Council held hearings and as a legislative body denied the requested amendments to the City's Comp Plan. After that, Wescot filed a lawsuit and the ensuing settlement agreement would allow them one more attempt at their Comp Plan Amendments and Council is obligated to hear them and evaluate the proposed amendments once again.

City Manager Olander stated that the crux of the correspondence received from Wescot, indicate that they disagree with the past Council decision and the staff recommendation, that a Comprehensive Plan amendment is needed. They are requesting that the Comp Plan amendments be skipped, and that they just go straight to the permits.

John Keegan, Counsel for Wescot

Mr. Keegan addressed the Council, asking for confirmation from the Council on the process to allow the company to go forward with their project. He also noted that all Wescot wants to do is be in a position that if the runway were built, the conveyor system will be ready to deliver earth materials, and would be a viable option rather than just by trucking methods.

In regards to the Comprehensive Plan amendments, Mr. Keegan advised that it was never Wescot's idea to have to do the amendments. He reminded Council that the Comprehensive Plan is a blue print as guidelines, not firm regulations. Recently the company took a thorough look at the Comp Plan policies and the amendments that have been made, and are now willing to have the conveyor system considered against the Comprehensive Plan and the Shoreline Master Plan as is, with no amendments. The company feels that although amendments may be beneficial to Wescot, they are not necessary. Wescot feels the conveyor belt would be classified as a transportation project which is allowed.

Councilmember Thomasson advised that if Mr. Keegan is not asking for reconsideration of Comprehensive Plan amendments, but wants to move on to an Unclassified Use Permit, this could be considered a quasi-judicial matter and perhaps Council should not be having this conversation.

Mr. Keegan reaffirmed that Wescot is asking for reconsideration, however with a slight change. The action that they wish Council to take is to say, "okay we will accept that, we will forego the Plan amendments, and allow you to proceed directly to the key discretionary permits." Mr. Keegan voiced the opinion that he believes this is within Council's discretion in light of the settlement agreement. He further noted that within the Settlement Agreement, the previously prepared environmental analysis still stands, unless specific changes to the original project are proposed, or special environmental changes due to the Endangered Species Act. He noted that this a different way, but believe it is a more direct way. The City would still have its full discretion to interpret the Comprehensive Plan and its regulations, and to assess all of the impacts the proposed conveyor system may have, review the mitigations Wescot is offering and make a fair determination.

Councilmember Thomasson remarked that the Community Development Director and City Attorney have given their professional advise, that Council should proceed only based on the settlement agreement which called for reconsideration of the Comp Plan amendments.

City Attorney McLean questioned Mr. Keegan as to why Wescot is afraid to ask for the same Comprehensive Plan amendments.

Mr. Keegan replied that Comp Plan amendments would take double or triple the amount of time, so they wish to proceed directly to the regulatory permits. He advised that a final decision on the runway issue could be made shortly, and Wescot wants to be a position to be ready to offer a dirt hauling alternative should the decision be in favor of the Port.

Councilmember Steenrod commented that Wescot's urgency did not necessarily require urgency on the part of the City Council.

Further discussion ensued wherein Mr. Keegan again requested Council waive the Comprehensive Plan amendments and allow Wescot to proceed directly to the permitting process.

Councilmember Thomasson reminded Mr. Keegan, that Wescot cannot pick apart the settlement agreement and only take the portions they liked. He advised that Council would not commit to pre-judging the issues, and that if Wescot choose to go right to the permitting process, then that is their decision, the same as any other individual, but not Council's.

Councilmember White read a letter into the record from Normandy Park Mayor John Wiltse on behalf of the Normandy Park City Council and Normandy Park residents, expressing concern that Des Moines Council would consider Wescot's request to allow the conveyor belt/barge dock project without reviving the Comprehensive Plan amendment process, Shoreline master Program amendment process or without additional environmental process under the State Environmental Policy Act.. The letter urged Council to deny the request which clearly does not conform to the January 2000 settlement agreement with Wescot.

No motions were made. The Council took no action and reached no decision regarding the Wescot matter

State Legislative Update - Representative Shay Schual-Berke, District #33

Representative Schual-Berke addressed Council advising them that budget issues are a major concern and that the State will be looking at a \$1.6 billion deficit. She noted that Washington has the highest unemployment rate in the nation. She cautioned that federal funds will most likely be cut and this will especially impact schools. She further noted that back-fill funding to cities will not be there.

Representative Schual-Berke distributed written material on the State's Transportation Action plan and briefly reviewed the major projects proposed.

She advised that she continues the fight regarding the 3rd runway and noted it will have significant adverse impacts on schools in the Highline area. She encouraged passage of the District's school bond issue. She encouraged Council to continue efforts through ACC and noted she will continue her efforts on the State level.

She reviewed the following legislative issues:

- Drug Sentencing Reform - shut the revolving door of drug offenders committing crimes to support their drug addiction.
- Credit-Scoring - prohibit insurance companies from canceling or refusing new insurance policies based on credit information.
- Prescription Drugs - will help seniors, families and the uninsured gain more affordable access to prescription drugs.
- Super Majority - sought to change the super-majority requirement to that of simple majority, meaning school bonds and levies would pass with 50% vote. Bill died in the Senate by one vote.
- Safe Schools - designed to prevent harassment, intimidation & bullying in public schools.

In conclusion, Representative Schual-Berke thanked City Manager Olander on keeping her advised of issues of importance to Des Moines.

Wellness Wishes

Councilmember White informed everyone that Councilmember Sheckler is in Highline Hospital and encouraged everyone to send well wishes.

Requested Resignation - City Manager

Councilmember White read a letter addressed to the Citizens of Des Moines. She expressed that she was stunned to receive a telephone call from City Manager Olander, informing her that Mr. Wasson, Mr. Benjamin and Ms. Steenrod had requested his resignation. She questioned whether their motive was in regards to the City Manager preparing documents stating there is a conflict of interest and that Mr. Petersen would need to step down from his Council position. Her letter also referenced her presumption that the Council would work together collectively, she noted that apparently Mr. Wasson, Mr. Benjamin, Mr. Petersen and Ms. Steenrod are representing their own interest and the interests of those who would selfishly see the quality of life in Des Moines eroded. Her letter concluded stating this is foolish to fire one of the most capable and sought after City Managers and that the City has been fortunate that Mr. Olander has provided 15 years of dedication, experience and knowledge to Des Moines.

ADJOURNMENT

Executive Session

At 8:20 p.m. Mayor Wasson announced that the Council would adjourn into an Executive Session to discuss personnel issues for approximately one hour. He further advised that no formal action will be taken.

The Executive Session adjourned at approximately 10 p.m.

Respectfully submitted,

Denis Staab
City Clerk