REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES March 10, 2005

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

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

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Richard Benjamin, Gary Petersen, Dan Sherman, Maggie Steenrod and Susan White. Also in attendance were City Manager Tony Piasecki, City Attorney Linda Marousek, Community Development Director Judith Kilgore, Finance Director Paula Henderson, Public Works Director Tim Heydon, Assistant City Engineer Maiya Andrews and City Clerk Denis Staab.

COMMENTS FROM THE PUBLIC

Jane Ipsen, 23660 Marine View Drive, Des Moines Chamber of Commerce President

Ms. Ipsen presented the City with new City maps for distribution. She acknowledged that the publication was sponsored by local businesses.

She invited everyone to a ribbon cutting ceremony for the new owners of Marine View Florist to be held on March 17th at 10:30 a.m.

BOARD & COMMITTEE REPORTS

Suburban Cities Association

Councilmember White reported attending the Board of Directors meeting recently and noted that they are still working on the top 3 city issues to present to the Legislature. She will keep Councilmembers informed.

Public Safety and Transportation Committee

Mayor Pro Tem Thomasson advised Council that the Committee has completed review of the draft ordinance concerning false alarms and it should be to full council for review in the near future.

Ad-Hoc Comprehensive Plan Committee

Mayor Pro Tem Thomasson reported that the Committee held its second meeting last Friday and reviewed the Comprehensive Plan map. Minutes of the meeting will be distributed to Councilmembers.

COUNCILMEMBER COMMENTS

Economic Development Strategy

Councilmember White noted the Consultant will be making a presentation tonight. She encouraged Councilmembers to keep an open mind, and remember how important this issue is for the City to move forward in a positive direction.

Poverty Bay Wine and Music Festival

Mayor Sheckler reminded everyone that this week-end will be the first Wine & Music Festival sponsored by the Des Moines Rotary Club. He advised that pre-ticket sales have gone well and encouraged all to attend.

ADMINISTRATION REPORTS

State of Des Moines and Woodmont Libraries - King County Library System

Carol Van Baalan, Managing Librarian of the Des Moines Library, briefed Council on the state of the Des Moines and Woodmont Libraries. She advised that 2004 was a busy and successful year for both branches. She noted Des Moines checked out a total of 264,000 items an 8% increase over the previous year and Woodmont had a total of 205,000 items check out, a 3% increase. A few of the programs offered last year were:

- Des Moines:
  - Story times for preschoolers and toddlers
  - Summer Reading program
  - Study Zone for students, after-school homework help
  - Free computer classes
- Woodmont
  - Story times for preschoolers and toddlers
  - Family Story time
  - Summer Reading program
  - Free computer classes

She advised one of the major highlights was successful passage of the bond proposal to fund capital improvements over the next 10 years. This will bring expansion of the Woodmont branch from 5,000 sq. ft. to 10,000 sq. ft. scheduled to begin in 2006. She noted that for the Des Moines branch, a major accomplishment was the Online History Project, “Pieces of the Past”, a collaborative effort with the Des Moines Historical Society.

Amy Eggler, Manager of the Woodmont branch, advised that Woodmont will be adding the Study Zone for students to its list of programs.

In conclusion, Ms. Van Baalen distributed copies of the report to Council, along with information on some of the Libraries’ programs.

CONSENT CALENDAR was read by City Clerk Staab.

~~**1. Motion is to approve the regular minutes of February 24, 2005.**~~ [ED NOTE: Councilmember Benjamin requested this item be removed, BUT, later noted he really meant item #2]

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 #98207 through #98372 & electronic fund transfers in the total amount of $615,995.59

Payroll fund transfers in the total amount of $334,068.81

[ED NOTE: This item was officially voted on by a 4 to 0 vote, with Councilmember Sherman, Petersen and Benjamin abstaining, claiming they did not receive an e-mail packet of information and therefore had not had an opportunity to review.]

3. Motion is to accept easements from Wesley Homes Inc. for the purpose of situating and maintaining traffic signal equipment for the Wesley Pedestrian Project.

~~**4. Motion is to enter into the supplemental agreement for construction management services for the Pacific Highway South Project with CH2M Hill for an additional $84,894, plus authorize the City Manager or his designee to approve change orders up to an amount of 10%, and to authorize the City Manager to sign the contract substantially in the form as submitted.**~~ [ED NOTE: This item was removed by Councilmember Benjamin]

5. Motion is to approve the Addendum/Amendment to extend janitorial services contract between the City of Des Moines and E.D.S. Janitorial Services in the amount of $6,095.00 per month through February 2006 and authorize the City Manager to sign the contract substantially in the form as submitted.

6. Motion is to authorize the City Manager to sign the Memorandum of Understanding with the Des Moines Police Guild regarding longevity pay substantially in the form as submitted.

Councilmember Benjamin requested items number 1 and 4 be removed from the Consent Calendar. He later noted he meant item #2 not item #1.

MOTION was made by Councilmember White, seconded by Councilmember Steenrod and passed, to approve the remaining Consent Calendar items as read. It was noted that Councilmembers Benjamin, Petersen and Sherman abstained from voting on item #2 as they had not reviewed the item.

REMOVED CONSENT ITEMS:

Item #2 - Payment of Claims and Payroll

Councilmember Benjamin advised that he is used to getting a hard copy of the vouchers to be approved for payment. He did not realize they were sent via e-mail and has not reviewed them and therefore, cannot participate in approval. He would prefer to have approval delayed to another meeting. He apologized for asking to pull item #1 when he meant item #2.

Councilmembers Sherman and Petersen acknowledged that they did not receive or review the vouchers.

It was determined that the minutes would reflect that the 3 Councilmembers abstained from voting on this item.

Item #1 - Minutes of regular meeting of February 24, 2005

MOTION was made by Mayor Pro Tem Thomasson to approve the regular minutes of February 24, 2005. Seconded by Councilmember Benjamin and passed unanimously.

Item #4 - Supplemental Agreement for Construction Management Services

Assistant City Engineer Andrews explained that the supplemental agreement is necessary to provide construction management support for the remaining work items on the Pacific Highway South construction contract due to several changes to the scope of the original contact since the agreement was signed in early 2003.

Assistant City Engineer Andrews and Public Works Director Heydon confirmed for Council that the entire project, when completed, will still be within the 10% contingency as originally budgeted.

MOTION was made by Councilmember Sherman, seconded by Councilmember White, to enter into the supplemental agreement for construction management services for the Pacific Highway South Project with CH2M Hill for an additional $84,894, plus authorize the City Manager or his designee to approve change orders up to an amount of 10% and further to authorize the City Manager to sign the contract, substantially in the form as submitted.

A FRIENDLY AMENDMENT was offered by Mayor Pro Tem Thomasson, to instead of listing an additional amount, substitute a new maximum payable amount of $3,782.073. That way it will show the actual total amount authorized. Also he proposed instead of 10% contingency use the dollar amount of $10,000.00.

FRIENDLY AMENDMENT was accepted by maker and seconder of the original motion.

VOTE ON MOTION: Motion passed unanimously.

AGENDA REVISION

With no objections from Council, Mayor Sheckler moved New Business Item #2 before Old Business.

NEW BUSINESS

Development Agreement with Port of Seattle for Buy-out Area

City Manager Piasecki noted that the purpose of the agenda item is to brief Council on the progress made to date regarding a development agreement with the Port of Seattle for the 90 acres of land north of the Post Office on South 216th. He introduced Port Commissioner and President of the Commission, Bob Edwards.

Mr. Edwards informed Council that he and his staff have developed a very good working relationship with City Manager Piasecki and other City staff members. He noted that the buy-out property is probably some of the best potential development property in the City that is vacant and that everyone wants to work together to create jobs and further economic development in Des Moines. He informed Council that the Port will not remove any dirt from this site for the 3rd runway. In addition, he noted that the Port will need to compensate Des Moines for street right-of-ways associated with the property, assuming the Council approves the site development. He stated that this project signals to the community that the City and the Port relationship can be positive going forward into the future, and broadcasts to the regional business community that Des Moines is a great place to do business.

City Manager Piasecki advised Council that it was staff's intention to talk about the status of where the discussions are with the Port and to ask the Council for direction.

Mayor Pro Tem Thomasson noted that the development agreement will be processed through a public hearing process, which is quasi judicial rather than legislative. He expressed concern that it is one thing to inform Council about process, but Council should not hear anything about content.

City Attorney Marousek expressed agreement with Mayor Pro Tem Thomasson. She advised that staff is being careful to avoid anything that might be construed to be something that should only be heard in the public hearing. She noted staff wishes to only talk about what is being drafted and to get Council's approval to move forward to draft something to bring back in the public hearing.

City Manager Piasecki advised that the work that has been done during the last several months was based on the assumption that there was going to be dirt taken from the site. Now with Commissioner Edwards announcement that no dirt is going to be used for the runway, everything changes. He noted that a lot of the information that was going to be passed along this evening, most likely would not be valid, and staff needs to go back and reconfigure what needs to be done step by step. Therefore what needs to be discussed is the development agreement process and the general process staff will follow to get to a point where Council and the Port Commission can agree and say, 'yes, this is what we want to do'.

Airport Director Mark Reis informed Council that the Port had been anticipating using the already issued permit from the Corps of Engineers, that includes mitigation for number of impacts. Since the Port has determined that they will not be using the dirt from the property, the Port will need to talk to the Corps of Engineers to determine the appropriate next steps, in concert with City staff.

Community Development Director Kilgore informed Council that development agreements are allowed under RCW 36.70B, Growth Management Act. She noted that the intent of development agreements are to increase the certainty, and reduce waste of public and private resources. She stressed that what is being proposed, does not circumvent or eliminate, the master plan process that is required under DMMC 18.25. A full master plan will be developed with the developer at the proper time. She informed Council that Administration believes that the use of development agreements will allow the Council more opportunity for review and allow for a more systematic process. She advised that a development agreement sets forth development standards and other provisions for a specific piece of property. She noted that the development standards will include a full array of measures, including but not limited to phasing, permitted uses, mitigation measures, impact fees, etc. She advised that this will carry with the property and can be phased, or one large development agreement, and will give the City a lot of flexibility on how to break a large complex project down to size. She noted that development agreements, unlike interlocal agreements, require public notice and a public hearing, and will be recorded.

Councilmember Sherman questioned if the development agreement contains uses that are not in the City's Zoning Code, will the City be required to change the zoning.

Community Development Director Kilgore responded that it will allow revisions of permitted uses, if so desired. She noted that the development agreement would have to be consistent with applicable development regulations as adopted.

City Attorney Marousek advised that the City will not be obligated to change its zoning code as long as Council finds that the suggested uses are consistent with the current zoning.

Community Development Director Kilgore advised that GMA recognizes you can't just do something blanket on every piece of property, everywhere. She noted that there is always going to be unique circumstances and situations.

Upon questioning, City Attorney Marousek noted there is a working draft of the document, but it cannot be presented nor talked about it in detail, until the public hearing.

Mr. Reis informed Council that in general the F.A.A. has specific concerns about anything under a flight path or could be a safety concern. He noted that this property is not generally within that boundary. He stated that the other thing that comes into play, is the Port has a re-use agreement with the F.A.A. concerning this property, that guides the use of the property and what the Port does with any sale or lease revenue from the property. Since the F.A.A. funded the purchase of much of this property, they have a proprietary interest in it being used for something related to airports.

Councilmember Sherman requested a copy of the re-use agreement, and the basic law or administrative code justification for the F.A.A.'s position in regards to the use of the property. He felt they may have a "wish list" of uses versus a required by law list of uses.

Upon questioning, Mr. Reis noted the agreement with the F.A.A. is about seven years old, and was created because the Port has an obligation to either return the 80% funding that they supplied, or to use the 80% as part of the Noise Mitigation Program. The benefit to the Port is that the money stays in the community if it is used for purposes consistent with the original investment that the F.A.A. made.

Mayor Pro Tem Thomasson commented that if fill dirt is no longer going to be taken, he can see no urgency for a development agreement not being done concurrent with a Master Plan. He noted that the City Code says the Master Plan must be essentially the first process and all other processes can be concurrent with it.

Community Development Director Kilgore informed Council that the goal of a development agreement was to break this project up into pieces so that they could be reviewed consecutively so by the time we get to the Master Plan, which is very detailed, that there is some evidence that the development plan will work and will be accepted by Council.

City Manager Piasecki advised that staff will bring back a draft agreement, through the Public Hearing process, for Council to start asking detailed questions.

Community Development Director Kilgore noted that a development agreement is a contract that is authorized by State law and is binding on both parties and the term will be agreed to by both parties. It is envisioned that any developer will go through the full Master Plan process before anything is built.

Policy Issue #1: *Is a Development Agreement an appropriate mechanism?*
Yes - Consensus.

Policy Issue #2: *Shall the grading permit be an administrative process?*

Upon questioning, Mr. Reis restated that the Port has no current plans to remove dirt for use at the Airport.

Mayor Sheckler advised that he is taking Policy Issue #2 off the table.

8:52 p.m. Mayor Sheckler called for a 10 minute break.

Policy Issue #3: Shall the City participate with the Port of Seattle on discussions with the Corps of Engineers regarding the amount of dirt removal at the site?

City Manager Piasecki noted that this issue may be moot, however, there are wetlands on the property and they will have to be dealt with. One possibility is to discuss with the Corps of Engineers about some other process or issues. He questioned Council whether they are comfortable with City staff being present when the Port enters into the process of discussions with the Corps and how it might relate to the development agreement and how it might react with the City's Code. He advised that the Port has invited the City to participate and he feels it is important for staff to hear what is being said and what will work in the City's best interest in regards to the development permit process.

Mayor Pro Tem Thomasson voiced the opinion that the wetlands are an important issue about this site and the City Code addresses wetland issues. He felt it would appropriate for City staff to be present and if there are questions that they do not hear answers to, perhaps they could ask. He noted that the Corp's had even given approval to borrow from this site. He understands that new wetlands were actually discovered after the 404 permit was applied for, so he questioned to the extent that there are wetlands, are they or aren't they part of that original permit, and if after the permit, how would the permit apply. He felt that since no dirt is being used, he would think that the 404 permit would not apply at all to the Development Permit or any future development that is allowed. He felt a new permit should be obtained.

Mr. Reis felt Mayor Pro Tem Thomasson correctly identified questions that the Port needs to ask and work with the Corps to understand what they think the next correct procedural steps are. If there are options on how to move forward, the Port would like to do that with the City and Port talking about it together.

Councilmember Steenrod felt the permit will be pretty much between the Corps and the Port, but felt it would be very wise for City staff to be in attendance for advice and counsel.

Council consensus was that it is appropriate for staff to attend and be informed on any discussions.

Councilmember Benjamin stated that he appreciates the Council and Port coming together for civil discussions and moving forward on this issue.

OLD BUSINESS

City Council Travel and Conference Funding

Mayor Sheckler introduced the subject and noted the following three options for funding City Council travel and conferences:

1. Transferring funds from the General Fund ending fund balance.

2. Transferring funds from the Airport Defense Fund.
3. Utilizing savings from General Fund's existing appropriates.

Mayor Sheckler noted, perhaps inadvertently, that no funds were budgeted in the 2005 budget for Councilmembers to travel and participate in national and local conferences and meetings.

Upon questioning, Finance Director Henderson noted the following amounts were in the 2004 budget:

Travel: $5,000 (mileage, airfare, meals, lodging)
Seminars/Conferences: $2,500 (registration fees)

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember White, to appropriate $3,000 for travel and $1,500 for registration to be transferred from the General Fund ending fund balance.

Councilmember White advised that she has found tremendous benefit in outside meetings. She felt that ACW Legislative Conferences are essential and any lobbying than can be done on behalf of the City to obtain funding for projects that need funding, makes a lot of sense. She hopes this dollar amount is large enough to cover all the upcoming conferences.

Councilmember Sherman spoke in support of having funds to attend essential meetings. He noted Councilmembers are not paid for their time to attend the meetings. However, with a limited amount of funds available, he felt it important that all have an opportunity to use the funds.

MOTION was made by Councilmember Sherman, seconded by Mayor Pro Tem Thomasson, to amend the motion that expenditures for individual Councilmembers greater than $150.00, be approved by the Council as a whole.

Councilmember Petersen stated that eliminating these funds in the 2005 budget, was not an oversight, but intentional with the budget restrictions the City is facing. He noted he will not support the motion.

Councilmember Benjamin recalled that the these funds were purposely left out to help keep expenses down and to balance the budget. He felt it is important for Council to keep its word and therefore he will not support the motion.

Councilmember Steenrod remembers at budget time saying, Council must set an example. She noted she had great difficulty eliminating line items in the budget, cut employee salaries and jobs without Council also making difficult decisions. She noted Council must weigh needs versus wants, and she feels this is a want. She cannot support the motion.

Councilmember Sherman pointed out that his amendment would allow oversight of unnecessary expenditures. He cited Councilmember White's recent trip, clearly linked to a mission of this Council, which may very well bring a significant amount of money to the City. He agreed Council needs to be careful of how money is spent. He also spoke in support of attendance at Association of Washington Cities meetings to allow networking with other cities and to know about what is going on in the State.

CALL FOR THE QUESTION: Councilmember Steenrod called for the question. Motion passed 6 to 1, with Mayor Pro Tem Thomasson opposed.

VOTE ON AMENDMENT: Motion passed 4 to 3 with Councilmembers Benjamin, Petersen and Steenrod opposed.

VOTE ON MAIN MOTION: Motion passed 4 to 3 with Councilmembers Benjamin, Petersen and Steenrod opposed.

NEW BUSINESS

Overview of Revisions and Presentation of Economic Development Strategy Core Decisions Memo

Darrell Vange of Ravenhurst Development, Inc. referenced his memo contained in Council's packet, noting he is looking for guidance from the Council for support before they put together an implementation plan with specific recommendations in detail. He stated there are five decision areas, which he reviewed and commented on as follows:

- *Is the Pacific Ridge vision still relevant given the amount of development that has occurred within the past five years?*

He advised Council that this vision will not be supported by the market any time soon, and felt that some revisions to the Code may be appropriate in order to encourage development.

- *Does the Council want stronger residential development, if yes, in what areas and what residential types?*

- *Is fostering further development along Marine View Drive a City priority?*

He noted good things are already happening, but could happen faster with some City support. This would require investment of staff time and budgeting on program, tasks and projects.

- *What is the vision for the waterfront?*

He felt that the Marina and Beach Park present a great opportunity, but also require the expenditure of funds and staff time.

- *Given the NEST study and the current market what is the ideal development for the Des Moines Creek Business Park area?*

Given that the City is about to begin discussions with Port on a development agreement, getting consensus is valuable.

In regards to the Pacific Ridge Area, Mr. Vange noted that this area has not developed in the same way as the rest of the City due to issues such as environment, crime, a low ownership percentage in housing compared to the rest of the City. He stated in his opinion that the current zoning has elements that restrict development rather than encourage it. He felt that there are some basic inconsistencies and if Council would entertain modifying the current vision, that there are opportunities with residential and commercial that would see more development. He noted that since the zoning has been in place there has been no residential applications and only one commercial application.

Councilmember Sherman voiced the opinion that there are a number of reasons for Council's vision for the Pacific Ridge Area, and he feels those reasons remain valid. One of those reasons was meeting the GMA density requirements and it was felt that this was the best location. He noted that if there is an opportunity to get a little more development sooner by "tweaking" the zoning, but not changing the vision, he would be willing to listen.

Mr. Vange stated it is not the vision, it is some of the regulations that are preventing development. As an example he noted the City requires more than 2 parking spaces per unit for residential and at the same time requires 70% of the parking spaces in a project that has more than 9 units has to be structured parking. He felt that the combination prohibits projects. He felt the key issue for Council is, will the City allow townhouses. He advised that 12 to 20 units per acre is what the market wants today. However, he noted that this would preclude 10 story buildings on that site anytime soon.

Councilmember Sherman commented that the Pacific Highway South Reconstruction Project was a major element in stopping new businesses during its construction. However, now that it is complete there is some interest from major retailers.

Councilmember White expressed interest in ideas that might be presented to include the townhouse concept in the Pacific Ridge Area that might spark intermediate development in the interim.

Mayor Pro Tem Thomasson expressed the opinion that townhouses in the Pacific Ridge Area would be contradictory to the vision for that area. He noted that he does not want to increase density throughout the City to meet GMA requirements. He felt that private ownership townhomes would mean the vision would never be fulfilled, and stated that Pacific Ridge is the wrong place for their construction.

Councilmember Steenrod expressed interest in exploring changing zoning to be more flexible. She also noted that home owners tend to bring standards up. She noted she wants to keep the long range vision, but is willing to look at an interim plan.

Mayor Sheckler felt there was enough consensus to explore tweaking zoning regulations in the Pacific Ridge Area.

In regards to higher density single family, Mr. Vange stated that if Council is willing to consider he will recommend where this could be accomplished. He pointed out that in the downtown area, 10 feet height could be added to allow for an extra floor, which can be done without effecting views.

Councilmember Sherman expressed concern that having accessory dwelling units could be a strain on the infrastructure such as water supply. He spoke against a "tall building" downtown look.

Mayor Pro Tem Thomasson felt that most businesses do not want accessory dwelling units next door. He pointed out that townhomes were acknowledged in the zoning code in specific appropriate places. He noted that the downtown building height issue, block by block, has been studied at least three times during his term on Council. The conclusion has always been tall buildings are not in character with Des Moines small town appeal.

10:24 p.m. **MOTION** was made by Councilmember Steenrod, seconded by Councilmember Benjamin, to extend the meeting to 11:00 p.m. Motion failed 4 to 3 with Councilmembers Benjamin, Petersen and Steenrod voting yes.

Councilmember White commented that a view is always an important consideration when people buy property. However, she noted Council is not in the business of protecting and guaranteeing everyone's view. She felt she would be willing to look at ideas downtown to help with economic development and Council should listen to consultant's ideas.

Mayor Sheckler questioned Council whether anyone is opposed to Mr. Vange continuing with the Planning as he has been directed. There were no objections.

Mr. Vange informed Council that he felt some changes could be made to the downtown zoning that would encourage more development sooner, because development would be more economically feasible.

Councilmember Sherman questioned how much economic impact would the City realize by allowing an additional story downtown, especially compared to what damage may be done by allowing taller buildings.

Mayor Pro Tem Thomasson voiced the opinion that a "housing discussion" was not what the consultant was hired to do. He felt perhaps Council needs to really define the term "economic development". He advised that he is in no way interested in a taller downtown. He stated he would be willing to look at other areas where townhomes might be added to the zoning map.

Councilmember Steenrod stated that she likes everything she sees in the proposal, but would like to see more in the terms of the "check marked" issues that Council needs to decide. She noted she would like to see some changes to downtown height requirements, to encourage more development, especially of residential on top of retail, to create a more vibrant community.

NEXT MEETING DATE

Mayor Sheckler advised that the next regular meeting will be March 24, 2005, and a retreat will be held on March 26, 2005 at the Activity Center.

ADJOURNMENT

10:30 p.m. As time expired, meeting was adjourned.

Respectfully submitted,

Denis Staab
City Clerk