REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES March 23, 2006

The regular meeting of the Des Moines City Council was called to order at 7:32 p.m. by Mayor Pro Tem Thomasson in the City Council Chambers, 21630 11th Avenue South, Suite B.

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

ROLL CALL - Present: Mayor Bob Sheckler (arrived at 8:07 p.m.), Mayor Pro Tem Scott Thomasson, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, Dan Sherman, and Susan White. Also present were City Manager Tony Piasecki (arrived at 8:07 p.m.), City Attorney Linda Marousek, Planning, Building, and Public Works Director Grant Fredricks, and Deputy City Clerk Angela Chaufty.

Mayor Pro Tem Thomasson announced that Mayor Sheckler and City Manager Piasecki were enroute to the meeting and would arrive shortly.

COMMENTS FROM THE PUBLIC

Edward Snyder, 17407 7th Place SW, Normandy Park

On behalf of his daughter, a Des Moines resident, Mr. Snyder asked Council to review and revise the city's ordinances regarding easements. He distributed a picture of two houses in Normandy Park sharing a private lane and a copy of the Normandy Park Ordinance regarding private lanes. Mr. Snyder said that his daughter wished to build a second house on her property. Although the lot exceeds size requirements, he was told that the City did not allow easements to accommodate this development. Mr. Snyder said the revenues from this type of development could help the City.

Mayor Pro Tem Thomasson asked Mr. Snyder to work with the Planning, Building, and Public Works Director to identify specifically which part of the code he wanted addressed.

Planning, Building, and Public Works Director Fredricks gave Mr. Snyder his business card.

BOARD AND COMMITTEE REPORTS

Municipal Facilities Committee

Councilmember Scott noted that recently the Rotary Club had hosted a wine festival and the Olympia Yacht Club had hosted a dinner in the Beach Park facilities. The usage of the Beach Park facilities has increased. The Municipal Facilities Committee would meet tomorrow to review plans for the auditorium update.

Public Safety and Transportation Committee

Councilmember Kaplan informed Council that the committee had met two weeks ago. Several items were before them.

South County Area Transportation Board

Councilmember Kaplan reported that the Board had met to review recent legislation requiring Sound Transit and the Regional Transit Improvement District to place their funding request proposals on the 2007 ballot. The purpose of the legislation was to balance transportation funding needs and to create a governing board.

Suburban Cities Association

Councilmember Pina reported that the Association had discussed FEMA training requirements for staff. He requested that the City Attorney review the SCA website to determine whether the training of Councilmembers was also required.

Neighborhood Meetings

Councilmember White informed Council that she had attended a neighborhood meeting at which several people asked that Council be reminded to speak into their microphones during the Council meetings.

National League of Cities

Councilmember White reported that she had attended the National League of Cities Conference as a representative of the City and as a representative of Historic Preservation Lobby Day. She briefly highlighted the following efforts:

- Preserve Community Development Block Grant funding.
- Collaborate with local officials regarding immigration reform.
- Protect local authority and prevent reform of the Communication Act.
- Support federal tax reform issues.
- Gain acknowledgment that cities and town should have a voice in discussions regarding them.

Information regarding the details of these issues was available upon request.

Environment Committee

Mayor Pro Tem Thomasson reported that the committee had met to review the Des Moines Basin Improvement Project and its funding shortfall. The committee recommended that specific questions be presented to Council for consideration at the April study session.

COUNCILMEMBER COMMENTS

Levy Lid Lift Ballot Measure

Councilmember Pina clarified that, if passed, the levy lid lift would result in a $0.48 increase per $1,000 accessed valuation during the proposed levy's first year.

Crime Rate

Councilmember White reported that she, Mayor Sheckler, and the Chief of Police had attended a neighborhood meeting to discuss crime in the South 272nd Street/Pacific Highway South area. Area representatives would be meeting to address the situation.

ADMINISTRATION REPORT

Signal at 24th Avenue South/South 216th Street

Planning, Building, and Public Works Director Fredricks announced that the new signal located at 24th Avenue South/South 216th Street was fully operational.

Activity Center Improvements

Planning, Building, and Public Works Director Fredricks reported that the frontage improvements at the Activity Center had been completed.

Salt Water State Park Bridge Repairs

Planning, Building, and Public Works Director Fredricks informed Council that the emergency repairs to the bridge were substantially completed.

Introduction of Land Use Planner II

Planning, Building, and Public Works Director Fredricks introduced recently hired Land Use Planner II Denise Lathrop.

CONSENT CALENDAR was read by Deputy City Clerk Chaufty.

1. Motion is to approve the ~~regular minutes of February 2~~, and the special and regular meetings of February 9, and the regular minutes of February 23 and March 2, 2006.

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 #103307 through #103475 & electronic fund transfers in the total amount of $566,114.79

Payroll fund transfers in the total amount of $370,800.33

3. Motion is to approve the surplus of one 1997 GMC Animal Control Pick-up VIN #GTCG29R3VE527821, one 1988 GMC 5-yard dump truck VIN# IGDP7DIY3JV529528, two 2006 F-250 pick up beds, and a 2000 Scag Zero turn riding mower SN#5420059, M#STT52-25CH with aerator and grass collection attachments and authorize disposing of by auction, sale or transfer to other department or agencies.

4. Draft Resolution No. 06-045***[Assigned Res. No. 1008]*** - Title: A Resolution of the City Council of the City of Des Moines, Washington, setting the time date and place of the Final Assessment Roll hearing for Local Improvement District No. 1-98-10.

MOTION is to approve Draft Resolution No. 06-045 setting a public hearing for April 27, 2006.

5. Motion is to approve the surplus and disposal of 36 electric meters, meter bases and conduits removed from N Dock at the Des Moines Marina and authorize disposing of by auction, sale or transfer to other department or agencies.

~~6. Motion is to remand to City Council committees, the following items: Public Safety and Transportation Committee - Review of a proposed Interlocal Agreement with the cities of Kent, Auburn, Federal Way, Tukwila, and Renton and the Port of Seattle for a Special Response Team (SRT) partnership; review of the Transportation Element of the Comprehensive Plan; review of revisions to the City's Emergency Management Plan; and review of the 2007 transportation and public safety operating budgets. To the Finance & Economic Development Committee: Review of the Zoning Code Update project; review of the 2006 Comprehensive Plan amendments; review of non-quasi-judicial elements of the Des Moines Creek Business Park Conceptual Master Plan; review of non-quasi-judicial elements of the second development agreement with the Port of Seattle; oversight of the efforts to streamline and improve the City's permitting process; and oversight of the implementation of the Economic Development Strategy.~~

7. Motion is to authorize the City Manager to sign the 2006-2007 CPG Grant No. G0600210 between the City of Des Moines and the Washington State Department of Ecology; the 2006 LHWMP contract amendment for Grant No. D32773D between the City and the Seattle-King County Department of Public Health; and the 2006-2007 King County Solid Waste Division SR/R Grant No. D36023D.

MOTION was made by Councilmember Sherman and seconded by Councilmember Kaplan to approve the consent calendar.

Councilmember Scott removed the regular minutes of February 2, 2006 for a correction to Page 8.

Mayor Pro Tem Thomasson asked her to work with the City Clerk to correct the minutes.

Mayor Pro Tem Thomasson removed Item No. 6.

VOTE ON MOTION: Motion passed unanimously.

REMOVED CONSENT CALENDAR ITEM

Items and Issues to be Remanded to City Council Committees

Mayor Pro Tem Thomasson recommended that the two Des Moines Creek Business Park items be dealt with by Council as a whole.

MOTION was made by Mayor Pro Tem Thomasson and seconded by Councilmember Sherman to adopt Consent Calendar Item No. 6 with the deletion of the two Des Moines Creek Business Park items.

Planning, Building, and Public Works Director Fredricks informed Council that the items were listed as placeholders as the agreements had not yet been submitted to the City.

VOTE ON MOTION: Motion passed, 4 – 2, with Councilmembers Pina and White opposed.

At 8:07 p.m., Mayor Sheckler and City Manager Piasecki arrived at the meeting.

EXECUTIVE SESSION

At 8:07 p.m., Mayor Pro Tem Thomasson announced that Council would convene in Executive Session for approximately thirty minutes.

City Attorney Marousek announced that the purpose of the Executive Session was to discuss with legal counsel representing the City litigation or potential litigation to which the City was, or was likely, to become a party and about which public knowledge regarding the discussion was likely to result in an adverse legal or financial consequence to the City.

Present: Mayor Sheckler, Mayor Pro Tem Thomasson, and Councilmembers Kaplan, Pina, Scott, Sherman, and White. Also present were City Manager Piasecki, City Attorney Marousek, and Outside Counsel Mike Kenyon.

No formal action was taken.

At 8:43 p.m., City Manager Piasecki reported that the Executive Session had concluded. Council would reconvene the regular meeting after a ten minute break.

NEW BUSINESS

Discussion and Potential Final Action Addressing Claims by Former Councilmembers for Reimbursement of Legal Expenses, Including Expenses Related to Recall Charges

MOTION was made by Councilmember Kaplan and seconded by Councilmember Pina to authorize payment of $90,000 to settle the pending case of Wasson et al v. City of Des Moines upon filing of an order of dismissal with the court in a form acceptable to the City Attorney.

Councilmembers Pina, Scott, and Kaplan stated that they would support the motion as the City must move on.

Councilmember White agreed with the need for the City to move on but said that she could not support the motion on principle.

Mayor Sheckler said that he had spent 7.5 hours in mediation regarding the issue. He believed that it was in the best interest of the City to recommend the proposed settlement figure to Council.

Councilmember Sherman confirmed that, if the motion was approved, all claims attached to the lawsuit would be gone.

VOTE ON MOTION: Motion passed 4 – 3, with Mayor Pro Tem Thomasson and Councilmembers Sherman and White opposed.

At 9:05 p.m., Mayor Sheckler left the meeting.

OLD BUSINESS

Draft Ordinance No. 05-216 ***[Assigned Ord. No. 1376]*** Comprehensive Plan Amendments

Consultant Judith Kilgore led Council through a review of Issues 15 – 34 as contained in the agenda packet. The following actions were taken by Council:

MOTION was made by Councilmember Sherman, seconded by Councilmember White and passed unanimously to approve Issue 15 as written.

MOTION was made by Councilmember White, seconded by Mayor Pro Tem Thomasson and passed unanimously to approve Issue 16 as written.

MOTION was made by Councilmember Sherman, seconded by Councilmember Pina and passed unanimously to approve Issue 17 as written.

Councilmember Scott stated that plantings that do not block views should be encouraged.

Consultant Kilgore recommended that appropriate types of plantings be addressed during the discussion of the Zoning Code.

In regard to Issue 18, Consultant Kilgore confirmed that "anadromous" had been spelled correctly.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Kaplan and passed unanimously to delete the statement "The City of Des Moines should promote community designs that enable walking, bicycling and public transit use thereby reducing greenhouse gas emissions and regional air pollution" from the final draft as recommended by Issue 19.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Kaplan and passed unanimously to delete the statement "City administrative services and staff have grown as the size of Des Moines has increased such that certain existing City facilities may require additional building or land area in the future" from the final draft as recommended by Issue 20.

MOTION was made by Councilmember White, seconded by Councilmember Kaplan to accept Issue 21 as recommended.

Councilmembers Sherman and Kaplan noted several typographical corrections that were needed in the proposed language of Issue 21.

Councilmember Sherman recommended that Section 13 state that "recyclables collection service of specified materials is available to households and businesses through solid waste haulers."

In response to Councilmember Scott's questioning regarding Section 6, City Manager Piasecki confirmed that the number of marina slips would be updated every year through the amendment process.

The maker and seconder of the motion **accepted the corrections and recommendation as a friendly amendment**.

VOTE ON MOTION: Motion passed unanimously.

MOTION was made by Councilmember Sherman, seconded by Councilmember White and passed unanimously to accept Issue 22 as written.

MOTION was made by Councilmember Sherman and seconded by Councilmember Kaplan to accept Issue 23 as written.

Councilmember Sherman recommended that the statement "Patronage privileges for Des Moines residents are available at the Highline Community College Library."

The maker and seconder of the motion **accepted the recommendation as a friendly amendment**.

VOTE ON MOTION: Motion passed unanimously.

MOTION was made by Councilmember Sherman and seconded by Councilmember White to adopt Issue 24 as "Maintain US Postal Services as necessary to residents and businesses."

Councilmember Kaplan recommended that the word "maintain" be changed to "improve" as an area in the City still had a different zip code.

The maker and seconder of the motion **accepted the recommendation as a friendly amendment**.

VOTE ON MOTION: Motion passed unanimously.

MOTION was made by Councilmember Sherman, seconded by Councilmember Kaplan and passed unanimously to accept Issue 25 as written.

MOTION was made by Councilmember Kaplan to adopt Issue 26 as outlined.

Councilmember Scott recommended that the words "low cost" be changed to affordable.

Councilmember Sherman proposed that no action be taken.

Councilmember Kaplan **withdrew his motion**.

Council took no action on Issue 26.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Sherman and passed unanimously to accept Issue 27 as written.

MOTION was made by Councilmember Sherman and seconded by Councilmember White to accept Issue 28 as written.

Councilmember Scott suggested that "placement" be added to the list of criteria.

City Manager Piasecki explained that the list would not limit the items that could be considered when Council discussed the issue during the review of the Zoning Code.

Councilmember Scott said that she would address the issue when council considered the Zoning Code.

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

MOTION was made by Councilmember Sherman, seconded by Councilmember White to accept Issue 29 as written.

Councilmember Pina recommended that the criteria remain in the statement.

Councilmember Kaplan noted that the Zoning Code would provide specific criteria.

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

MOTION was made by Councilmember Pina, seconded by Councilmember White and passed unanimously to accept Issue 30 as written.

MOTION was made by Councilmember White, seconded by Councilmember Sherman and passed unanimously to accept Issue 31 as written.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Sherman and passed unanimously to accept Issue 32 as written.

MOTION was made by Councilmember Pina and seconded by Councilmember White to accept Issue 33 as written.

Mayor Pro Tem Thomasson recommended that the words "locate and design" remain in the text rather than the word "advocate" due to the historic policy of the issue. He also suggested that Item No. 4 be deleted.

Councilmember Pina voiced agreement with maintaining the words "locate and design" but recommended that Item No. 4 remain in the statement.

The maker and seconder of the motion **accepted Councilmember Pina's recommendations as a friendly amendment.**

VOTE ON MOTION: Motion passed unanimously.

MOTION was made by Councilmember Kaplan, seconded by Councilmember White and passed unanimously to accept Issue 34 as written.

Mayor Pro Tem Thomasson read the title of the proposed ordinance into the record.

Upon questioning, Consultant Kilgore confirmed that the previous SEPA determination was not altered by Council's actions.

MOTION was made by Councilmember Sherman and seconded by Mayor Pro Tem Thomasson to pass Draft Ordinance No. 05-216 as amended to a second reading on April 6, 2006.

Mayor Pro Tem Thomasson noted that Section 1 of the Ordinance stated that there were 10 chapters when there were now 11 chapters. He said that the proposed ordinance needed other similar revisions.

Councilmember Scott stated that Council should not delay in taking action as funding opportunities could be missed.

Councilmember Pina suggested that a list of clerical or manifest changes be given to staff for incorporation into the ordinance.

VOTE ON MOTION: Motion failed, 2 – 4, with Councilmembers Kaplan, Pina, Scott, and White opposed.

MOTION was made by Councilmember Pina and seconded by Councilmember Kaplan to suspend Rule 26b to adopt Draft Ordinance 05-216 as amended on the first reading.

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

<u>MOTION</u> was made by Councilmember Pina and seconded by Councilmember White to adopt Draft Ordinance 05-216 as amended and subject to editing on the first reading.

Mayor Pro Tem Thomasson said that he would not support the motion due to pass inconsistencies.

Councilmember Kaplan noted that any errors would be caught within a few months time and could be corrected during the 2006 amendment process.

Councilmember Sherman felt that there was no reason to not correct the draft ordinance now.

<u>VOTE ON MOTION</u>: Motion passed, 4 – 2, with Mayor Pro Tem Thomasson and Councilmember Sherman opposed.

<u>NEW BUSINESS</u>

<u>Use of City Newsletters, Cable Channel, etc</u>.

City Manager Piasecki introduced the subject.

City Attorney Marousek defined traditional public forums and the restrictions that can be placed on them. In order to avoid violation of First Amendment rights and to not be in the position of endorsing a group that is not in the province of government, she recommended that Council revise the character generator ordinance and allow only City related functions to be publicized on the character generator and website.

Councilmember Sherman voiced agreement with City Attorney Marousek's recommendation. He suggested that advertising be limited to events that the City has participated with an identifiable financial or in-kind contribution.

Councilmember Scott asked that Council not develop such restrictive policies that organizations that are trying to help the City, such as the Legacy Foundation, are hurt.

City Attorney Marousek explained that, once advertising is allowed, the Constitution does not allow the City to discriminate between groups.

Councilmembers Pina and White agreed that the City website, City newsletter and Channel 21 should be limited to City information.

City Attorney Marousek confirmed that the baseball park billboards posed the same concerns.

Mayor Pro Tem Thomasson recommended that staff also consider the public access channel when addressing the issue.

Councilmember Sherman asked that staff research the type of organizations the City can legitimately contribute money to and avoid any gift of public funds.

City Manager Piasecki confirmed that he had received sufficient direction from Council regarding the issue.

NEXT MEETING DATE - Study Session April 6, 2006

ADJOURNMENT

At 10:15 p.m., **motion** was made by Councilmember Sherman, seconded by Councilmember Kaplan, and passed unanimously to adjourn the meeting.

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk

ACTION ITEM FROM 3/23/06 MEETING

- Correct 2/2/06 minutes.