REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES April 14, 2005

The regular meeting of the Des Moines City Council was called to order at 7:35 p.m. by Mayor Sheckler in the City Council Chambers, 21630 11th Avenue South, Suite B.

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

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Richard Benjamin, Gary Petersen, Dan Sherman, Maggie Steenrod, and Susan White. Also present were City Manager Tony Piasecki, Assistant City Attorney Richard Brown, Public Works Director Tim Heydon, Assistant City Engineers Maiya Andrews and Loren Reinhold, Park Manager Bill Miller, and Deputy City Clerk Angela Chaufty.

COMMENTS FROM THE PUBLIC

Eric Williams, 22211 Cliff Avenue South, #103

As president of the Cliff House Condominium Association, Mr. Williams encouraged staff to work with the Association while addressing Fourth of July public firework display issues. He voiced support for the ban of fireworks.

BOARD & COMMITTEE REPORTS

Suburban Cities Association

Councilmember Sherman announced that he and Councilmembers Steenrod and White had attended the Suburban Cities Association meeting. The owner of Third Place Books presented information regarding public spaces at work and public/private partnerships.

Councilmember White reported that the Suburban Cities Association Board continues to work on the organization's policies.

Southwest King County Economic Development Initiative

Councilmember White reported that the committee was currently working with nine customers considering Des Moines as a possible location for their businesses.

Senior Services Advisory Committee

Councilmember White announced that May is designated Older Americans Month. She identified the 2005 goals of the Senior Services Advisory Committee as:

1. Search for programs that provide seniors a health screening safety net: vision, dental, hearing, etc.
2. Create programs that educate the entire community on protection against elderly exploitation.
3. Continue to support caregiver programs and services throughout the community.
4. Promote positive images of aging.

Councilmember White said that the following programs had been scheduled:

- Protect Yourself and Your Money – May 16, 2005
- Senior Scams – May 18, 2005
- Five Wishes: An End of Life Planning Tool – May 23, 2005

Des Moines Beach Park

Councilmember White reported that the Washington Legislature had included $300,000 for Beach Park in its budget.

Water Transportation

Councilmember White announced that the King County METRO Study Group was still studying possible ferry service.

Comprehensive Plan Update Committee

Mayor Pro Tem Thomasson announced that the committee would meet April 15, 2005.

COUNCILMEMBER COMMENTS

Scheduling of Meetings

Noting that his Sabbath is on Saturday, Councilmember Benjamin asked the Mayor to rotate retreat dates in the future.

Candidacy Clarification

Councilmember Benjamin stated that, contrary to the City Manager's statements, he, at no time, made any offer to resign from his position as Councilmember to the City Manager. Furthermore, he stated that he never said that he would not run for office in the future.

Parking Requirements

Councilmember Steenrod asked Council to consider reducing the number of parking spaces required for commercial uses.

Sports Auction

Councilmember Steenrod announced that tickets were available for the May 14, 2005 Sports Auction sponsored by Dollars for Scholars, Legacy Foundation, and Rotary Club.

Tukwila Transit Station

Councilmember Steenrod reported that the Tukwila Transit Station would be open 24 hours per day beginning May 2, 2005.

Comments Regarding Councilmember Benjamin's Statement

In response to Councilmember Benjamin's comments, Councilmember Sherman said that Council retreats have previously been conducted on Saturday and Sunday. He also stated his belief that Councilmember Benjamin's comments regarding the integrity of the City Manager were outrageous and counterproductive. He expressed his faith in the honesty and integrity of the City Manager.

Councilmember White agreed with Councilmember Sherman's comments.

Declaration of Candidacy

Councilmember White announced that she would run for a second Council term.

<u>Comments Regarding Councilmember Benjamin's Comments</u>

Councilmember Petersen stated that the City has an obligation to pay legal fees and it should live up to that obligation.

Mayor Sheckler said that he knows the City Manager did not lie regarding the issues raised by Councilmember Benjamin. Regarding scheduling meetings on the Sabbath, Mayor Sheckler said that many events are scheduled on weekends. The events are not scheduled with the intention of denying anyone their religious freedoms.

<u>ADMINISTRATION REPORTS</u>

<u>Public Works, Community Development, and Engineering Director Position</u>

City Manager Piasecki announced that there were currently nine semi-finalists for the position. He hoped to interview the finalists during the second week of May.

<u>Crime Free Rental Housing Program Class</u>

City Manager Piasecki reported that evaluations from the second Crime Free Rental Housing Program class were very positive. The evaluations had been distributed to Council.

<u>Fire at the Marina</u>

City Manager Piasecki announced that a small electrical fire had occurred on J-Dock on April 8, 2005. Minimal damage was incurred thanks to the quick response of the Police and Fire Departments.

<u>CONSENT CALENDAR</u> was read by Deputy City Clerk Chaufty.

1. <u>Motion</u> is to approve the regular meeting minutes of March 24 and the special meeting minutes of March 26, 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.

<u>Motion</u>: 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 #98561 through #98919 & electronic fund transfers in the total amount of $618,458.49

Payroll fund transfers in the total amount of $341,228.02

3. <u>Motion</u> is to approve the surplusing of the following vehicles: three 1992 Ford Taurus' VIN Nos. 1FACP5045NA197392, 1FACP5047NA197393 and 1FACP5049NA197394 from the Engineering Dept., and two 2000 Ford Crown Victoria's VIN Nos. 2FAFP71W5YX141280 and 2FAFP71W77YX141281 and one 2001 Ford Crown Victoria VIN No. 2FAFP71W61X145053 from the Police Department and authorize disposing of by auction, sale or transfer to other department or agencies.

~~4. <u>Motion</u> is to enter into an agreement with the Port of Seattle to purchase a permanent easement over 735 square feet of land for the 24th Avenue South/South 216th Signal Project in the amount of $3,365 plus closing costs, and to authorize the City Manager to sign the Easement Agreement substantially in the form as submitted.~~

~~5. Two motions:~~

~~A. Draft Resolution No. 05-061 Title: A Resolution of the City Council of the City of Des Moines, Washington, waiving the state competitive bidding requirements, pursuant to RCW 39.04.280(1)(a), for the purchase of light poles and light fixtures for Steven J. Underwood Memorial Park from Musco Lighting, LLC, and authorizing the purchase of same.~~

~~MOTION is to approve Draft Resolution No. 05-061.~~

~~B. Motion is to approve the agreement for the purchase of the remaining lighting equipment for Underwood Memorial Park with Musco Lighting LLC, in the amount of $122,300 plus tax, authorize the City Manager to sign the contract substantially in the form as submitted, and to authorize the City Manager to approve change orders in amounts not to exceed 10% in total.~~

6. Motion is to approve the Accountemps General Conditions of Assignment and Terms of Payment for temporary employment services for payroll processing in an amount not to exceed $24,200.

Councilmember Sherman removed Item Nos. 4 and 5.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Petersen and passed unanimously to approve the consent calendar as amended.

REMOVED CONSENT CALENDAR ITEMS

Purchase of Easement Rights for Installation of Traffic Signal at South 216th Street and 24th Avenue South

In response to Councilmember Sherman's questioning, City Manager Piasecki explained that the Port of Seattle had purchased the land with FAA funds. Therefore, the purchase of the property would require a much more involved process than obtaining an easement.

MOTION was made by Councilmember Sherman and seconded by Mayor Pro Tem Thomasson to enter into an agreement with the Port of Seattle to purchase a permanent easement over 735 square feet of land for the 24th Avenue South/South 216th Street Signal Project in the amount of $3,365 plus closing costs, and further to authorize the City Manager to sign the Easement Agreement substantially in the form as submitted.

Councilmember Steenrod asked staff to confirm the legal description was correct prior to signing the agreement.

VOTE ON MOTION: Motion passed unanimously.

Draft Resolution No. 05-061 ***[Assigned Res. No. 990]*** Lighting Equipment Supply Services at Steven J. Underwood Memorial Park

In response to Councilmember Sherman's questioning, Park Manager Miller informed Council that Musco Lighting, LLC was the only supplier for the equipment. The bid for installation would be advertised next week. The 10% contingency fee was to address any shipping fee increases due to escalating fuel costs.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember White, and passed unanimously to approve the motions previously read as Consent Calendar Item Nos. 5a and 5b on the Consent Calendar.

OLD BUSINESS

Marine View Drive Bridge - Award of Contract

Assistant City Engineer Reinhold introduced the subject. He noted that the second round of bids for the project also came in high. The Des Moines Creek Committee had carefully reviewed the project and had decided to proceed with the construction of the bridge, the bypass overflow pipe, and the regional detention facility. In order to proceed with the project, the amount of steel in the bridge had been reduced and the shotcrete had been removed. The Committee also decided to delay the stream restoration and stream augmentation system projects. The interlocal agreement will need to be amended at some point in the future to address the delayed projects.

Councilmember Steenrod questioned whether the integrity and safety of the project was compromised by reducing the amount of steel in the bridge.

Public Works Director Heydon explained that the placement of the steel was most important. The installation would be closely monitored by Department of Transportation (DOT). Public Works Director Heydon noted that the Des Moines Creek Committee had taken steps to address traffic impacts during construction.

MOTION was made by Councilmember White and seconded by Councilmember Sherman to award the construction contract for the Marine View Drive Bridge Project to Condon Johnson and Associates, Inc. in the amount of $6,621,999.90 for Schedules A, A2, B and C, and further, to authorize the City Manager to sign said contract substantially in the form as submitted, plus authorize the City Manager or his designee to approve change orders up to an amount of 5% of the contract amount or an amount as approved by the Des Moines Creek Committee.

Public Works Director Heydon explained that the shotcrete was for aesthetic purposes only and could be added at any time. Upon questioning from Mayor Pro Tem Thomasson, Public Works Director Heydon said that the committee had indicated that funding for the shotcrete would not be interlocally funding. Specific details of the elements of the plan were not included in the interlocal agreement. The Des Moines Creek Committee had reviewed the bids and had approved the project amount.

Mayor Pro Tem Thomasson asked staff to provide a future briefing regarding the status of the interlocal agreement.

Councilmember Sherman requested a follow-up report regarding stream augmentation as a necessary condition of the Third Runway Project. He stressed that the additional money required for the project, over the previously authorized amount, would be paid for by the other members of the committee rather than by the City of Des Moines. If the contract was approved, Councilmember Sherman asked that a copy of the minutes be attached to the agreement so that there would be no question regarding who was responsible for the additional funds.

Public Works Director Heydon said that the appearance of the bridge without the shotcrete would depend upon various factors including the granularity of the dirt and how the drilling goes.

Councilmember White called for the question.

VOTE ON CALLING THE QUESTION: Motion failed, 4-3, as the motion required a super-majority. Mayor Pro Tem Thomasson and Councilmembers Benjamin and Steenrod were opposed.

Upon request, Assistant City Engineer Reinhold explained that Schedules A and A2 were tax exempt while the amounts listed for Schedules B and C included the tax.

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

At 8:56 p.m., Mayor Sheckler declared a ten-minute break.

Marine View Drive Bridge – Administration Costs

Assistant City Engineer Reinhold introduced the subject. As the other parties of the Interlocal Agreement are either donating staff time or paying additional money towards implementing the construction of the basin projects to address the budget difficulties experienced by the Des Moines Creek Committee, he voiced staff's recommendation to remove Des Moines' staff related costs and charge them to the City's Surface Water Management Utility fund.

Councilmember Sherman suggested that Des Moines bill for the hours and designate the collected funds for the shotcrete project.

Mayor Pro Tem Thomasson questioned whether the shotcrete would qualify for REET funds. He voiced conceptual agreement with Councilmember Sherman's suggestion.

Upon questioning from Councilmember Steenrod, Assistant City Engineer Reinhold explained that the arsenic issues were being addressed through contingency funds.

In response to Councilmember Benjamin's questioning, Public Works Director Heydon explained that a culvert rather than a bridge currently existed in the area. The culvert was installed in the 1920's. Twelve years ago, a retaining wall on the west side was constructed so that the roadway could be widened. No work to the culvert was done at that time.

Councilmember Benjamin said that the project would be a focal point of the city. Therefore, it should be done right and funds should be dedicated to the shotcrete project.

Mayor Pro Tem Thomasson said that, when the Committee renegotiates the interlocal agreement, he expected Des Moines to remind them that the project still needed the shotcrete and to voice the expectation that the jurisdictions pay their share of its expense.

Public Works Director Heydon recommended that negotiations be conducted after the cost of the final project was known.

MOTION was made by Councilmember Benjamin to direct staff to include the shotcrete as part of the project and to continue negotiations.

Motion died for lack of a second.

Council concurred that the shotcrete was important to the project.

Councilmember Steenrod said that she could not support excluding staff's costs for the Marine View Bridge Project due to the City's current budget situation.

No action was taken on the issue.

NEW BUSINESS

Draft Ordinance No. 05-072 ***[Ord. No. 1362]*** Fireworks Prohibitions and Permits - 1st Reading

Assistant City Attorney Brown introduced the subject. He briefly reviewed the provisions of Draft Ordinance No. 05-072.

MOTION was made by Councilmember Sherman and seconded by Mayor Sheckler to suspend Rule 26(b) in order to enact Draft Ordinance No. 05-072 on the first reading.

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

MOTION was made by Councilmember Sherman and seconded by Mayor Sheckler to enact Draft Ordinance No. 05-072.

Upon questioning from Mayor Pro Tem Thomasson's questioning, Assistant City Attorney Brown confirmed that the issue did not require special notification or a public hearing.

Council concurred that the last sentence of Section 4(2) of the proposed ordinance should read "The permit required by this section is in addition to the permit required by the City Clerk, including but not limited to a special event permit."

At 9.47 p.m., Mayor Sheckler declared a five-minute recess in order to allow staff time to research the cost of a Public Display Permit.

City Manager Piasecki reported that, currently, there was no fee for the Public Display Permit.

Mayor Pro Tem Thomasson said that the City Manager should designate a fee within the next few weeks and inform Council of the cost.

MOTION was made by Councilmember Sherman and seconded by Mayor Sheckler to amend Section 1(4) by placing a period after "novelty devices" and creating a new Section 1(5) beginning with "special effects . . ."

The maker and seconder of the motion **amended the previous motion** by also revising Section 1(1) to read "the use of fireworks or flares for signal or illumination for safety purposes".

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

Mayor Pro Tem Thomasson said that he would not support the proposed ordinance as he was not willing to take this civil liberty away. He said that he would have appreciated public input concerning the issue.

Councilmembers Sherman and White voiced support for the proposed ordinance.

Assistant City Attorney Brown noted that the proposed ordinance did not address the use of fireworks for religious ceremonies.

Councilmember Benjamin said that an exemption should be provided for religious ceremonies.

Mayor Sheckler stated that, under the proposed ordinance, religious ceremonies would require a special event permit.

MOTION was made by Councilmember Steenrod and seconded by Councilmember White to amend Section 13(1) by removing the word "gross". **VOTE ON MOTION**: Motion passed, 4 – 3, with Mayor Sheckler, Mayor Pro Tem Thomasson, and Councilmember Sherman opposed.

Councilmember Petersen voiced support for the proposed ordinance. He said that the Fireworks Over Des Moines display was better than any backyard display.

Councilmember Benjamin said that he would not support the proposed ordinance as it would eliminate a tradition and a family event.

Councilmember Steenrod asked that the Police and Fire Departments visit the local schools and PTSA's to notify them of the fireworks ban.

VOTE ON AMENDED MAIN MOTION: Motion passed, 5 – 2, with Mayor Pro Tem Thomasson and Councilmember Benjamin opposed.

Mayor Sheckler read the title of the ordinance into the record and announced that the ban would not go into affect until next year.

Draft Resolution No. 05-071 - Council Rule Change to Allow Comments From the Public at Study Sessions

MOTION was made by Mayor Pro Tem Thomasson and seconded by Councilmember Steenrod to place Draft Resolution No. 05-071, amending Council Rule 10 of the Des Moines City Council Rules of Procedure, on a subsequent regular Council meeting agenda for a vote regarding its adoption. The third sentence of the proposed resolution should read, "Comments from the public, limited to the items of business on the Study Session agenda, may at the discretion of the Presiding Officer be allowed so long as the comments are in accordance with Council Rule 20(f)."

Councilmember Benjamin said that this would be a good change.

In response to Councilmember Benjamin's questioning, Mayor Sheckler confirmed that the Comments from the Public for the regular meetings would not be changed by the adoption of the proposed resolution. He noted that various Councilmembers and residents had requested comments to be allowed during the Study Sessions.

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

Mayor Sheckler read the title of Draft Resolution No. 05-071.

City Manager Piasecki announced that Draft Resolution No. 05-071 would be placed on the April 28, 2005 consent calendar.

REMINAING AGENDA ITEM

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember White and passed unanimously to continue the remaining agenda item to the next meeting.

NEXT MEETING DATE - Regular meeting April 28, 2005

ADJOURNMENT

At 10:29 p.m., **MOTION** was made by Mayor Pro Tem Thomasson, seconded by Councilmember Sherman and passed unanimously to adjourn.

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk

ACTION ITEM FROM 4/14/05 MEETING – None.