REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES April 27, 2000

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

PLEDGE OF ALLEGIANCE to the flag was led by Councilmember Kaplan.

ROLL CALL - Present: Mayor Scott Thomasson, Mayor Pro Tem Bob Sheckler, Councilmembers Terry Brazil, Dave Kaplan, Dan Sherman, Gary Towe and Don Wasson. Also present were City Manager Bob Olander, Assistant City Manager Tony Piasecki, City Attorney Gary McLean, Community Development Director Judith Kilgore, Assistant City Attorney Cass Preston, and Deputy City Clerk Angela Chaufty.

ADMINISTRATION REPORTS

Briefing from Public Health Department Regarding Arsenic-Lead Study

City Manager Olander introduced Todd Yerkes, Environmental Health Services Supervisor from Seattle/King County Public Health Department.

Mr. Yerkes informed Council that Vashon Island and Maury Island residents had requested a comprehensive study after preliminary soil survey studies for a mining permit on Maury Island had indicated arsenic levels in the area. As a result, the Department of Ecology obtained 160 site samples from undisturbed areas. He noted that from a public health standpoint, all of the findings were in excess of the state standard. Mr. Yerkes explained that the next steps would include establishing a sampling protocol and identifying the boundary of contamination. He noted that south Vashon Island and Maury Island had recorded the highest levels of lead. He suggested that residents wash their vegetables before eating them and wash their hands after touching the soil to avoid contamination. Results of the lead tests performed in the Des Moines area would be released once they were available.

COMMENTS FROM THE PUBLIC

Jerry Guite, 21317 Marine View Drive South, Normandy Park

Mr. Guite stated that he was attending the meeting with his friend, Toby Hyber. He distributed a copy of Mayor Pro Tem Sheckler's Public Disclosure Commission's filing to Council and asked that Mayor Pro Tem Sheckler recuse himself from the evening's hearings. He encouraged the City to withdraw their membership in the ACC and asked Council to review the salaries of various employees. In closing, Mr. Guite asked for a written response to his April 18, 2000 letter.

Bill Aiken, Marina Tenant

Mr. Aiken addressed Council regarding the assessment of Marina capital funds to the city's General Fund. He believed that the Marina needed all available capital funds for repair and improvements. He felt that differentiating between resident and non-resident Marina tenants created an inequitable situation. He asked Council to use prudence when discussing Marina capital improvements. He felt that more improvements were needed than were listed in the

Master Plan. Mr. Aiken said he would provide Council with a list of repairs that he felt were necessary as well as a moorage rate study of twenty local marinas.

Lew Anderson, 1650 South 244th Place

Mr. Anderson asked Council or staff to respond to the following questions:

1. How did the City handle the reductions caused by the passage of I-695?
2. Does the Council agree with the City Manager concerning the amount of the shortfall?
3. How much revenue was estimated to be gained through the passage of Ordinance Nos. 1244, 1245, 1246, 1248, and 1249?
4. Why did Council not address paying off the ACC debt?
5. What percentage of employees do not carry their workload?
6. What was the amount of shortfall expected for Year 2000?
7. Were any other items involved?

Mr. Anderson announced that the State had allocated $2,216,200 to Des Moines through the adoption of their budget.

BOARD & COMMITTEE REPORTS

Municipal Facilities Committee

Councilmember Towe informed Council that the committee had met to review the Marina Master Plan. He noted that a consultant was assisting them in studying the long-term repair issues, market conditions, future trends, and reconfiguration of the boater mix. Councilmember Towe noted that the committee had discussed soliciting public comment in the future regarding the Plan.

Endangered Species Act

Councilmember Brazil said that he had attended a King County discussion regarding the Endangered Species Act. The discussion centered on the Management Zone Concept. Councilmember Brazil noted that preservation of streams would be a major topic in the future.

City Manager Olander further explained that the three county response to the Endangered Species Act included surface water management controls, road construction and management and wetland area development. He noted that these elements would be implemented through the Shoreline Management Plan, SEPA, and EIS process.

Public Safety and Transportation Committee

Councilmember Sherman noted that Transpo Group had presented the committee with the preliminary transportation element. He said that the committee would continue studying the issue.

Washington State Budget

Councilmember Sherman reported that Des Moines had been allocated $720,945 for Year 2000 and $1,400,000 for Year 2001 in the State Budget. He noted that the allocations represented two thirds of the amount the City would have received from Sales Tax Equalization funds.

City Manager Olander said that the city would continue to work with legislators to identify a long-term funding source.

ADMINISTRATION REPORT

Introduction of New Assistant City Attorney

City Attorney McLean introduced Cass Preston, the city's new Assistant City Attorney.

CONSENT CALENDAR was read by Deputy City Clerk Chaufty.

1. Motion is to approve the minutes of April 6 and 13, 2000.
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 42.24.080, 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 check #71290 through #71438 in the total amount of $169,778.21
        Payroll fund transfers in the total amount of $275,331.39
3. Draft Resolution No. 00-088 ***[Assigned Res. No. 885]*** - Title: A Resolution of the City Council of the City of Des Moines, Washington, authorizing the Greater Des Moines Chamber of Commerce to conduct a marine swap meet and on-the-water boat show in conjunction with the Des Moines sponsored Boat Safety Fair at the Des Moines Marina.

    MOTION is to approve Draft Resolution No. 00-088.

MOTION was made by Mayor Pro Tem Sheckler, seconded by Councilmember Brazil and passed unanimously to approve the consent calendar as read.

PUBLIC HEARING

Draft Ordinance No. 00-070 - Rezone of the North and Portions of South Subareas in the North Central Neighborhood & Draft Ordinance No. 00-071 - Business Park Classification Textual Code Amendments

Community Development Director Kilgore displayed a map of the affected area. She explained that the Growth Management Act required consistency between the city's Comprehensive Plan and Zoning Map.

Mayor Thomasson announced that the public hearings and discussions for the two proposed ordinances would be conducted together.

Community Development Director Kilgore explained that the City's acquisition of twenty acres in the area had made the current 20-acre requirement in the south subarea not reasonably possible. She reviewed the following recommended revisions:

- 18.25.020 – Prohibits chemical related products in the south subarea.
- 18.25.035 – Removes 20-acre requirement for Master Plan. Allows development in the south subarea to be processed as a Type II land use action.
- 18.25.040 – Increases the maximum site coverage in the south subarea from 70% to 75% and allows buildings in the north subarea to increase height from 35 feet to a maximum of 75 feet if located more than 200 feet from the property line.

- 18.25.060 – Allows surface parking in south subarea and encourages cooperative parking agreements.
- 18.25.080 – Allows a cash contribution in-lieu of open space property in the business park area.

City Attorney McLean said the rules for conducting a public hearing. He announced that the appearance of fairness rules applied to the hearings.

Upon questioning, Mayor Pro Tem Sheckler noted that two principles had contributed to his campaign. However, he did not feel it necessary to recuse himself from the hearing.

City Attorney McLean questioned whether anyone objected to Mayor Pro Tem Sheckler's participation in the hearing.

No objection to his participation in the hearing was voiced.

Councilmember Towe stated that upon request from Mr. Graham, a property owner, he had toured the business facility.

City Attorney McLean questioned whether anyone objected to Councilmember Towe's participation in the hearing.

No objections were voiced.

Councilmember Wasson noted that Mr. Graham had called him and encouraged his support for the issue.

City Attorney McLean questioned whether anyone objected to Councilmember Wasson's participation in the hearing.

No objections were voiced.

Councilmember Kaplan noted that he had received the same invitation from Mr. Graham as mentioned by Councilmember Towe. He stated that he had been unable to tour the facility.

City Attorney McLean questioned whether anyone objected to Councilmember Kaplan's participation in the hearing.

No objections were voiced.

Mayor Thomasson thought that he had previously received a call requesting that the issue be placed on the agenda.

City Attorney McLean questioned whether anyone objected to Mayor Thomasson's participation in the hearing.

No objections were voiced.

Mayor Pro Tem Sheckler announced that he had also looked at the property some time ago.

City Attorney McLean questioned whether anyone objected to Mayor Pro Tem Sheckler's participation in the hearing.

No objections were voiced.

SPEAKERS

Gary Ort, South 200th Street
As owner of PacStainless, Mr. Ort voiced his support for the amendment and rezone as he believed it was in the best interest of the property and the best use for the property. Mr. Ort informed Council that PacStainless had been in business for over twenty-four years and had offices in Baton Rouge and Houston as well.

Dick Myers, 911 Western Avenue, #409, Seattle
Representing Big League Property as a real estate agent, Mr. Myers stated his support for the proposed ordinances. He asked that the word "compatible" on page 13 of Draft Ordinance No. 00-071 be defined. He felt the joint parking provision would conflict with the compatible use clause. Mr. Myers also did not believe that the 10% recreation area required on page 14 of Draft Ordinance No. 00-071 was fair. He felt that the requirement could cause problems, especially for small lots. Mr. Myers suggested that the 10% be based upon buildable land rather than building area. He also questioned whether the 10% could utilize setback or wetland areas. In closing, Mr. Myers voiced disagreement with the owner paying for the land appraisal.

Shelley Parker, 1906 South 220th Street
As a resident and homeowner in the south subarea, Ms. Parker informed Council that she wished her family's standard of living to remain the same. She expressed concern with the 10% recreation area requirement and noted that she was not interested in providing parking for the city.

Mayor Thomasson called for additional speakers.

None responded.

Mayor Thomasson closed the public testimony portion of the hearing.

Community Development Director Kilgore noted that the 10% open space requirement had been a part of the code for over nine years. As people used parks, she explained that the code asked businesses in the area to proportionately share in the cost associated with them. In response to Ms. Parker's concerns, Ms. Kilgore explained that the recreation space requirement would only occur at the time of redevelopment. She highlighted the single-family properties that were included within the boundaries of the south subarea. Upon questioning from Councilmember Towe, Ms. Kilgore reported that the Community Development Department had not received any complaints regarding noise, traffic, trucks, or parking problems associated with Graycon. The City of SeaTac had not been contacted regarding any complaints for PacStainless. Ms. Kilgore noted that police records were only kept for ninety days and contained no complaints regarding Graycon.

Upon questioning from Councilmember Towe, Ms. Parker stated that she had seen Graycon and PacStainless's current facilities and found them to be clean and not pervasive. She noted that City Attorney McLean had explained that she would not be expected to provide parking for the City. However, Ms. Parker felt that the public tended to see all land as public land. She explained that she was not concerned with the change in zoning but how it would affect her and her home.

Community Development Director Kilgore explained that a twenty-foot setback would probably contain Type I landscaping as the neighboring property was utilized for residential use.

Upon questioning from Councilmember Wasson, Ms. Parker said that she was uncomfortable with only a twenty-foot setback.

Community Development Director explained that if the proposed zoning was adopted, residential owners could not change the footprint of their building.

Councilmember Towe suggested that Council add language to protect the current single-family property owners.

City Attorney McLean noted that DMMC 18.48 currently allowed structural improvements but restricted any remodel that would make the house larger.

Upon questioning from Councilmember Kaplan, Community Development Director Kilgore explained that the in-lieu fee or open space requirements applied throughout the city. She noted that the Park and Recreation Director had recommended maintaining the requirement in this area as well.

Ms. Parker said that the vacant lot next to her property had been purchased with plans to build a dwelling for her mother.

Mayor Thomasson questioned whether Ms. Parker wished her property to be excluded from the zoning change.

Ms. Parker stated that she had not considered the option. She asked whether the twenty-foot setback area could be used as a jogging trail.

City Attorney McLean suggested that under permitted use, Council add the following sentence to the permitted use section: "Single family residential uses in the south subarea provided such use existed on the subject property as of the effective date of this ordinance."

At 9:27 p.m., Mayor Thomasson declared a five-minute break.

In response to Ms. Parker's previous question, Community Development Director Kilgore explained that Type I landscaping would be required in the setback area. As Type I landscaping was a solid site barrier, she felt that it would not easily become a portion of a recreation area. She noted that under Type 2 review design criteria, staff would be able to minimize impacts as much as possible.

Councilmember Towe questioned whether Mr. Myers had any new information or concerns to share with Council.

Mr. Myers did not have any new information.

Mayor Thomasson closed the public hearing.

NEW BUSINESS

Interlocal Agreement with King County for Arson Investigation Services

Assistant City Manager Piasecki introduced the subject. He noted that Section 2.C of the proposed agreement had been revised to better describe the calculation method. Mr. Piasecki confirmed that the agreement would need to be adopted by Council every year.

MOTION was made by Mayor Thomason and seconded by Mayor Pro Tem Sheckler to approve the interlocal agreement with King County for provision of fire investigation services and to further authorize the City Manager to sign the agreement substantially in the form as provided tonight.

Assistant City Manager Piasecki confirmed that King County had agreed to the listed rate for the current year regardless of the participation level of other jurisdictions.

Councilmember Kaplan said he would support the motion but that he was uncomfortable with an interlocal agreement that based its rate upon the number of jurisdictions participating rather than the city's proportionate use.

MOTION was made by Mayor Thomasson and seconded by Mayor Pro Tem Sheckler to amend Section 3 of the agreement to read, "The City Manager shall be authorized to approve any one year extensions, in writing, prior to the expiration date and shall include recalculated annual rate of reimbursement as specified in paragraph II.C.

Councilmember Kaplan suggested that the issue be placed on the consent calendar in the future so as to maintain Council's flexibility.

VOTE ON MOTION: Motion passed, 5 – 2, with Councilmembers Kaplan and Sherman opposed.

VOTE ON MAIN MOTION: Motion passed unanimously.

PUBLIC HEARING, CONTINUED

Draft Ordinance No. 00-070 - Rezone of the North and Portions of South Subareas in the North Central Neighborhood & Draft Ordinance No. 00-071 - Business Park Classification Textual Code Amendments

City Manager Olander suggested that Council consider allowing the existing single-family houses in the south subarea as a permitted use. In regard to the width of the setbacks, City Manager Olander suggested that Council require a twenty foot buffer for a business adjacent to single-family zone or use.

Mayor Thomasson noted that the 1991 Council had required the Master Plan process so as to address buffers, access, setbacks and similar questions. He said that the Council had determined that there should not be any access off 24th Avenue South and yet he noted that the Bagley site had no access available except 24th Avenue South. He felt that the draft significantly changed the character of what the Council had in mind for the area.

Councilmember Kaplan felt that the character of the area had been changed when Council approved the purchase of the Sports Park/Community Center land.

Mayor Thomasson suggested that the boundary be adjusted to prevent access off South 220th Street and to avoid truck traffic impacts on 24th Avenue South.

Councilmember Wasson agreed with Councilmember Kaplan's comment and voiced support for keeping the boundaries as presented.

Councilmember Sherman felt that master planning should still be used to address siting, setbacks, and buffering concerns.

MOTION was made by Councilmember Towe and seconded by Councilmember Kaplan to pass Draft Ordinance No. 00-071 amending DMMC 18.25, provisions regarding the Business Park Classification, onto a May 11, 2000 second reading.

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

General consensus by Council directed the inclusion of the City Attorney's previous language regarding residential uses in the second draft of the proposed ordinance.

Councilmember Sherman said that he did not support changing the boundaries of the area as he felt the best use of the property was commercial.

Mayor Thomasson felt that the Master Plan process was necessary to deal with street system improvements or he suggested that Council agree that the properties would not be included in the rezone.

City Attorney McLean asked that he be allowed to research the street system improvement issue and respond at the May 11, 2000 meeting.

MOTION was made by Councilmember Kaplan and seconded by Councilmember Wasson to amend the first sentence of DMMC 18.25.080 to read "An area equal to at least 10 percent of the business park master plan located in the North subarea shall be provided for public recreational use."

VOTE ON MOTION: Motion failed, 2 – 5, with Mayor Thomasson, Mayor Pro Tem Sheckler, Councilmembers Brazil, Sherman, and Towe opposed.

Mayor Thomasson noted that references to the East subarea should be changed to Pacific Ridge.

MOTION was made by Councilmember Sherman and seconded by Mayor Thomasson to reinstate the fifty feet setbacks in the North subarea, require thirty feet setbacks in the South subarea and restore the twenty feet requirement in 4b.

Upon questioning, Community Development Director Kilgore noted that the purpose of the recommended setback reductions was to allow more surface parking.

At 10:26 p.m., **MOTION** was made by Councilmember Kaplan and seconded by Councilmember Towe to extend the meeting to 10:45 p.m.

VOTE ON MOTION Motion failed, 3 – 4, with Mayor Thomasson, Councilmembers Brazil, Sherman, and Wasson opposed.

Councilmember Towe called for the question.

VOTE ON MOTION: Motion failed, 2 – 5, with Mayor Pro Tem Sheckler, Councilmembers Brazil, Kaplan, Towe, and Wasson opposed.

Councilmember Towe called for the question for the main motion.

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

NEXT MEETING DATE – Regular Meeting, May 11, 2000

ADJOURNMENT

The meeting was adjourned at 10:30 p.m.

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk