REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES May 11, 2000

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

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

ROLL CALL - Present: Mayor Scott Thomasson, Mayor Pro Tem Bob Sheckler, Councilmembers Terry Brazil, Dan Sherman, Gary Towe (arrived at 7:38 p.m.) and Don Wasson. Absent: Councilmember Dave Kaplan. Also present were City Manager Bob Olander, City Attorney Gary McLean, Finance Director Scott McCarty, Community Development Director Judith Kilgore, Park and Recreation Director Thorell and City Clerk Denis Staab.

MOTION was made by Councilmember Sherman, seconded by Councilmember Brazil and passed unanimously, to excuse Councilmember Kaplan.

COMMENTS FROM THE PUBLIC

Bill Aickin, Marina Live-a-Board #D53

Mr. Aickin presented two documents regarding two subjects he is in the process of developing regarding the Des Moines Marina. They deal with Marina Cash Requirements and Moorage Rate Comparisons with 20 other marinas. Mr. Aickin advised Council that he is speaking as an individual. He noted his concerns lay with rising cash requirements needed for what he considers deteriorating conditions at the Marina, especially the sea-wall. He requested Council consider a faster time line to make needed repairs.

Cindy Ford, Senior Center Senior Shuttle Service

Ms. Ford thanked the Council for financial help that has been provided. She advised Council that the Senior Shuttle Service has been very successful and well received by senior citizens in the area who used the service last year for a total of 3,998 mile one way trips. She noted the service is used for shopping, trips to the Senior Center, doctor appointments and the like. In conclusion, she read a letter from a Wesley Garden's resident praising the service and requesting that this service not be lost due to budget constraints.

Jerry Guite, 21317 Marine View Drive S, Normandy Park

Mr. Guite addressed the Council requesting Mayor Pro Tem Sheckler resign as a representative of ACC as it is, in his opinion, a conflict of interest. He noted as Chairman of ACC, Mr. Sheckler has a voice in the use of ACC funds, which are voted on by the City Council. He further stated that Mr. Sheckler should resign as a City Councilmember as his wife is a City employee and this constitutes a conflict of interest. In conclusion, Mr. Guite requested that the City quit funding ACC with taxpayer money.

Kim Huyber, 25405 16th Place South

Mrs. Huyber related in some detail the history behind a Des Moines Court order to remove rabbits from their property to bring the number down to 3 by May 25th. She requested the City allow more time as they are in the process of selling their home so they can keep their rabbits.

7:58 p.m. Councilmember Towe arrived.

Toby Huyber, 25405 16th Place South

Mr. Huyber elaborated on his wife's statements, commenting that their first amendment rights are being violated. He reported that many of the rabbits are disabled and they cannot be adopted out. He also asserted that they have been denied the right to know who complained. He concluded by requesting that they be left alone and allowed more time to be able to move out of town.

Sandi Ackerman, 14325 Lake City Way NE

Ms. Ackerman spoke on behalf of the Huyber's, noting that it is hard to place rabbits in good homes. She requested that the City allow the Huyber's more time to move.

James McIntyre, 2320 SW 338th Street, Federal Way

Mr. McIntyre informed Council that he and his wife want to buy the Huyber home. He advised that they have signed papers and expect to close on June 25th. He requested an extension for the Huyber's to be able to move with their rabbits.

BOARD & COMMITTEE REPORTS

Suburban Cities Association - New President

Mayor Pro Tem Sheckler announced that Councilmember Terry Brazil has been elected as the new President of the Suburban Cities Association.

Airport Communities Coalition

Mayor Pro Tem Sheckler stated for the record that in regards to Mr. Guites earlier comment that he should resign as Chair of ACC, Mr. Sheckler advised that only elected officials of the member cities and Highline School District that make up the ACC, may serve as officers.

Municipal Facilities Committee

Councilmember Towe advised that the Committee toured the Edmonds Marina recently to help with their study and review of Des Moines Marina Master Plan. He stated they were particularly interested in the new rebuild of the Edmonds facility and the visual impacts in bringing it up to code. He noted that the Committee will meet again next week to continue their review of the Master Plan.

Suburban Cities Association

Councilmember Brazil advised that one of the main topics of discussion is the Endangered Species Act in regards to salmon. Main discussion is centering around "Management Zones" adjacent to streams and rivers. Currently land owners own right up to the actual water. The issue is being studied as to whether this should be under state, county or local controls.

PRESIDING OFFICER'S REPORT

Domestic Pets

Mayor Thomasson announced that there has been no interest from Council to discuss the issue of revising the number of domestic pets that are allowed in the City.

He further commented that the City Council, as a municipal body, has no power to overturn a Municipal Court Judge's decision.

Upon questioning by Council, City Attorney McLean advised that there is a separation of power and the Judge has the sole discretion in this matter. He did note that the Huyber's would be within their rights to present a written request to the Judge for a delay in their deadline to remove the animals or move.

ADMINISTRATION REPORTS

Rebuttal to Misinformation

City Manager Olander noted that Mr. Guite was misinformed concerning a conflict of interest of Mayor Pro Tem Sheckler serving as Chair of ACC. He reiterated that only elected officials of the member cities and the Highline School District may hold an office with ACC.

City Manager Olander stated that in regards to Mayor Pro Tem Sheckler's wife, that she has been a long time City employee, even prior to their marriage and prior to Mr. Sheckler running for Council. He advised that Councilmember Sheckler has abstained from participating in discussions or voting on any employee issues including salaries and benefits. This issue has been reviewed by the State Auditor's office and the City Attorney, and no conflicts exist.

City Attorney McLean addressed some of the statements made by Mr. Huyber. Mr. McLean indicated that City staff take care in truthful enforcement of City codes. He noted the single family lot contains over 70 rabbits. In conclusion, he noted that that citizens who file complaints have a legal right to remain anonymous, if they so choose.

Haunted House

Susan Goegebuer, Treasurer of Rotary, and Steve Carter, Director of Scare Productions, presented the City with a check in the amount of $22,602.88 representing the City's portion of the 1998 Haunted House proceeds. Ms. Goegebuer and Mr. Carter detailed the history and success of the Haunted House, noting that it has become of one the best attended haunted houses in the greater Seattle area.

CONSENT CALENDAR was read by City Attorney McLean.

1. Motion is to approve the minutes of April 20 and 27, 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 #71439 through #71597 in the total amount of $407,177.64
        Payroll fund transfers in the total amount of $288,618.38

3. Draft Resolution No. 00-086 ***[ASSIGNED RESOLUTION NO. 886]*** - Title: A Resolution of the City Council of the City of Des Moines, Washington, authorizing the Des Moines Rotary Club to conduct the 2000 and 2001 Haunted House at the Des Moines Beach Park and listing conditions under which such permission is granted.

    MOTION is to approve Draft Resolution No. 00-086.

4. Motion is to approve the attached settlement agreement waiver and release between the City of Des Moines and Granville Southern and authorize the City Manager and City Attorney to sign such agreement substantially in the form as submitted. And further, to direct the City Attorney to prepare and approve filings and submittals necessary to accomplish the intent and purpose of such agreement.

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

OLD BUSINESS

Draft Ordinance No. 00-071 Business Park Classification Textual Code Amendments (DMMC 18.25) - 2nd Reading and Draft Ordinance No. 00-070 Rezone of the North and Portions of South Subareas in the North Central Neighborhood - 1st Reading

Community Development Director Kilgore proceeded to review changes to Draft Ordinance No. 00-071 as follows with comments as noted:

18.25.020 Permitted Uses
Council's consensus was okay as presented.

18.25.040 Submittal Requirements and Approval Process for the South Subarea
Councilmember Sherman reiterated his earlier objections as requirements for Type II land use actions as he feels this should be a Master Plan Process.

18.25.040 Dimensional Standards
Consensus was acceptable as presented.

18.25.060 General Site Design Guidelines for Business Park Development
Consensus was to approve.

18.25.080 Recreation Area Required
Staff's recommendations as written were accepted.

Community Development Director Kilgore noted at the public hearing concerns were raised regarding the status of properties fronting 220th Street, their future use and the impact commercial development may have on this residential street. She proceeded to review five alternatives to address the issue with comments by Council as noted.

Alternative 1: Residential Use in Business Park Zone
Under this alternative the entire south subarea would be rezoned BP and residential uses would be a permitted use if established before January 1, 2000. This would allow the residential properties to be legal uses and would allow them to rebuild or modify their structures. It would not allow new construction of single family residences.

Alternative 2: Restrict Commercial Access to 220th Street
The entire south subarea would be rezoned to BP, but no commercial access would be allowed from 200th Street. This would require and easement from Grakon to allow access to 20th Ave. South to these properties. There is a possibility that although the western-most properties located on 220th would be zoned BP, there could be no access from 20th Avenue South.

Alternative 3: Site Area Requirements for Properties Adjacent to 220th Street
The entire south subarea would be rezoned. No minimum site area requirements for properties located along 24th Avenue South, 216th Street, or 20th Avenue South. If the property were adjacent to 220th Avenue South a three acre minimum site area would be required. Would require a ROW easement from Grakon to allow access to 20th Avenue South.

Alternative 4: Removal of properties from Rezone
The five properties adjacent to 220th Street would be removed from the rezone and remain RS-8400 zoned properties. A Comp Plan amendment would be required for this action which would be included in the fall amendments. As part of its SEPA mitigation, access to 200th from the Grakon Property would be prohibited.

Alternative 5: Align Zone Boundary Along 219th Street
All properties fronting 220th would remain RS 8400. This would split the zoning of the Grakon property and the Sports Park. A Comp Plan amendment would be required for this action and would be included in the fall amendments.

Mayor Thomasson noted that if the properties are allowed to remain single family he would want a restrictive language that no single family structure could be used as a commercial business location.

Councilmember Sherman spoke in opposition to Alternative 4. He felt that Council needs to look into the future, and that 50 years from now these properties will not be desirable as single family.

Mayor Thomasson noted that the northeast corner contains quite a few single family lots and he would prefer that a minimum lot size be established such as 2 acres

9:20 p.m. Mayor Thomasson called for a 10 minute break.

After further discussion, Council's consensus was that alternatives 4 and 5 were not acceptable.

Several Councilmembers expressed concern that these alternatives were not brought out at the public hearing. City Attorney McLean advised Council that at some point they must make final decisions based on testimony already given. He further advised that the alternatives are not that radical and staff has prepared and presented reasonable scenarios for Council's consideration and action.

Mayor Thomasson noted he would like to propose a sixth alternative that would rezone the following owned properties to business park - Grakon, Pac Stainless, Post Office, Hill, Beighle and all single family lots north of the Beighle property. The five single residential lots south of the Grakon property and the City owned property would remain as single family residential. Further, that existing homes would remain as permitted uses with the stipulation that they could not be used for business use other than Home Occupations, and that a minimum 2 acre development site size be established for business uses.

Community Development Director Kilgore stated that she is still working on an "institutional use" zone. This is the zone that would be applied to City property, including the future sports park.

Upon questioning from Council, City Attorney McLean advised Council that even though the public hearing is closed, Councilmembers are within their rights to ask questions of individuals who presented testimony.

Steve Parker - Upon questioning, Mr. Parker noted that he could live with any of the approved alternatives.

City Attorney McLean questioned whether any Councilmember had any information to divulge that may apply in the application of the Appearance of Fairness Doctrine. Councilmember Wasson announced that Mr. Parker is an employee of his.

Justin Graham, representing Grakon - Mr. Grant stated that he could support the Mayor's alternative number six as it offers the most flexibility. He advised his only concern would be limiting the use through the right-of-way, and any restrictions against using the "panhandle" area.

MOTION was made by Mayor Thomasson, seconded by Councilmember Brazil, that staff make appropriate changes to Draft Ordinance Nos. 00-071 and 00-070 and bring back to Council for consideration at a future meeting for second reading. These changes would reflect the amended business park zone boundaries, that text would allow existing homes as a permitted use with the stipulation that no business use could occur with existing housing structures, minimum site development size would be 2 acres, and that no business access would be permitted to be on South 220th Street.

Mayor Thomasson read both draft ordinances by title into the record.

Councilmember Towe spoke in opposition as he felt this is essentially staff's alternative four, with the exception of keeping the City owned property as single family. He spoke in favor alternative four as he felt the new direction is only delaying the project.

Councilmember Sherman spoke in opposition as he felt that a business park needs to be master planned. He felt this is strictly a business zoning and will not accomplish the City's long range goals.

FRIENDLY AMENDMENT: After further discussion, the maker and seconder of the main motion agreed to strike the language "second reading".

VOTE ON MAIN MOTION: Motion passed 5 to 1 with Councilmember Towe voting NO.

NEW BUSINESS

Financial Status and Review of 1999-2000 Municipal Improvement Fund (MCI)

The Finance Director McCarty proceeded to brief Council on the MCI fund with the use of view foils noting the following:

EXPENDITURES

Completed Projects - Expenditures for Completed Projects were $44,283 less than estimated. Two projects, permit tracking software and Year 2000 compliance, made up the majority of this amount.

Ongoing Projects - Expenditures for Ongoing Projects were $142,423 less than estimated. Two projects, Midway and Olympic elementary baseball fields, which were expected to be completed in 1999, were carried forward to 2000 because the contractor went bankrupt. Additionally, not as much was expended on the Pacific Ridge study as originally intended.

REVENUES

General Revenues were $125,685 (12%) greater than the budgeted amount of $1,005,000 This favorable variance resulted from a one-time real estate excise tax payment incorrectly identified as unincorporated King County from 1982-1999 in the amount of $132,748.

In conclusion he noted that completed project revenues exceeded expenditures by $162,250, permanently improving the cash available in MCI.

CIP Amendment - Interagency Committee For Outdoor Recreation Agreement for Sports Park Phase I Development

Park and Recreation Director Thorell briefly reviewed the history of the sports park development project. The proposed agreement would authorize repayment of up to $300,000 from the Interagency Committee for Outdoor Recreation (IAC) for a Youth Athletic Facility Grant for Des Moines Sports Park Phase I as identified in the City of Des Moines 2000-2005 Capital Improvement Plan. City and other outside funds in the amount of $652,812 serves as a match for the project. The passage of I-695 and the lack of available funds necessitated that the Sports Park Phase I development project scope and cost be reduced from $1,088,903 to $952,812. Both a reduction in scope and a project extension to May 19, 2000 were approved by the IAC to allow Des Moines the opportunity to secure matching funds and retain the State grant. The project scope still contains completion of 2 competition level ball fields and other required facility support amenities.

MOTION was made by Councilmember Brazil, seconded by Mayor Pro Tem Sheckler, to approve Interagency Committee for Outdoor Recreation Youth Athletic Facility Grant Account Agreement #99-1221D for Sports Park Phase I Development Project and further to authorize the City Manager to sign the Agreement substantially in the form as attached.

10:25 p.m. **MOTION** was made by Councilmember Sherman, seconded by Mayor Thomasson, to extend the meeting another 10 minutes. Motion failed 3 to 3 with Councilmembers Sheckler, Towe and Wasson voting NO.

The question was called for by Councilmember Brazil.

VOTE ON MAIN MOTION: Motion passed 4 to 2 with Councilmembers Sherman and Wasson voting NO.

NEXT MEETING DATE

Mayor Thomasson announced the next regular study session will be May 18, 2000.

ADJOURNMENT

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

Respectfully submitted,

Denis Staab
City Clerk