

## REGULAR MEETING DES MOINES CITY COUNCIL

### MINUTES

May 13, 2004

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

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

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 Acting City Manager Corbitt Loch, City Attorney Linda Marousek, Community Development Director Judith Kilgore, Public Works Director Tim Heydon and City Clerk Denis Staab.

### COMMENTS FROM THE PUBLIC

#### Cheryl Birdsong-Tuneau, 19818 3<sup>rd</sup> Place South

Ms. Birdsong-Tuneau informed Council that many residents of Des Moines rely on express Metro bus routes 130 and 132. She advised that there is huge concern over the potential elimination of these express routes by Metro. She further commented that another proposed change could add up to an extra 20 minutes to commute to downtown Seattle and that would be unacceptable. She requested Council support King County Councilmember Julia Patterson's efforts in maintaining or restoring the express service for the Des Moines/Burien Metro bus riders.

### BOARD & COMMITTEE REPORTS

#### Code Enforcement Issues

Councilmember Sherman reported that he has received numerous telephone calls from citizens concerned over the caterpillar infestation, especially on property with absentee owners. He felt that this neglect of properties is more than just caterpillars, as even vacant commercial properties along Marine View Drive have become neglected and do nothing for the aesthetics of the City. He requested that Administration look into some sort of Code Enforcement that could be utilized, similar to the legislation that was created concerning "junk cars", to help with properties that are not being maintained and bring back to Council for consideration.

Council concurred.

#### Initiative 864 - 25% Property Tax Rollback

Councilmember Sherman referenced an article in the *Federal Way Mirror* concerning the efforts of the Federal Way City Council to counter-act the effects of I-864 should it pass on the November ballot. He noted that Federal Way is considering asking voters to approve a levy lid-lift that would allow the City to continue collecting property taxes to off-set revenue from a property tax rollback. He noted that a 25% reduction in property taxes for Des Moines would amount to a \$700,000 reduction in budgeted revenue, which is an amount that the City simply cannot afford if we wish to maintain existing service levels. He requested consensus from Councilmembers to request Administration to prepare a proposed ballot issue to maintain property tax revenues for the voters of Des Moines to consider, should I-864 pass. He advised that such a ballot issue would need to be submitted by July 2<sup>nd</sup> to make the November Ballot and

therefore is very time sensitive. He noted that such a lid-lift would only go into effect if I-864 passes.

After brief discussion, Council's consensus was that Administration be directed to prepare such legislation for Council's consideration.

#### Economic Development Committee

Councilmember White noted that she is working hard on economic development issues, however is displeased with progress as noted in her report at the April 29<sup>th</sup> Council meeting.

#### Historic Preservation

Councilmember White informed Council and that she and Mayor Sheckler will be attending a meeting on Monday, for Executive Awards for the Masonic Retirement Center in Des Moines that will be presented by King County Executive Ron Simms. The award will be recognizing the historic value of the Des Moines Masonic Lodge with the King County Historic Preservation Office. She noted at the conclusion of this ceremony, legislative representatives will be given a tour of the Des Moines Beach Park. She invited all Councilmembers to attend.

#### PRESIDING OFFICER'S REPORT

##### Parks, Recreation, Senior Services Summer 2004 Brochure

Mayor Sheckler noted that the Summer Brochure is outstanding. He complimented the "Letter from the Director" regarding the Beach Park Historic Preservation and noted that there are activities for all ages and tastes.

#### ADMINISTRATION REPORTS

##### City E-Mail Address Change

Assistant City Manager Loch announced that July 23<sup>rd</sup>, the City's e-mail address will change to desmoineswa.gov. He noted this change is necessary to help to combat unwanted spam. Further announcements will be made prior to the change.

#### CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the special and regular minutes of April 22, 2004 and the regular minutes of April 29, 2004.
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 #94022 through #94309 & electronic fund transfers in the total amount of \$1,485,002.09

Payroll fund transfers in the total amount of \$356,740.75

3. Draft Resolution No. 04-072 [ASSINGED RESOLUTION NO. 974] - Title: A Resolution of the City Council of the City of Des Moines, Washington, authorizing application for funding assistance for a Washington Wildlife and Recreation Program (WWRP) project to the Interagency Committee for Outdoor Recreation (IAC) as provided in chapter 79A.15 RCW, Acquisition of Habitat Conservation and Outdoor Recreation Lands.

MOTION is to approve Draft Resolution No. 04-072.

4. Motion is to approve the Interlocal Agreement with Midway Sewer District, for the purpose of constructing the Marine View Drive Bridge and approximately 325 feet of sewer outfall pipe, and to authorize the City Manager to sign said agreement substantially in the form as submitted.

5. Draft Ordinance No. 03-022 [ASSIGNED ORDINANCE NO. 1339] - Title: An Ordinance of the City of Des Moines, Washington authorizing acceptance of donations of money or property to the City; establishing special accounts for the purpose of tracking such donations, and specifying how said accounts shall be administered.

MOTION is to approve Draft Ordinance No. 03-022 on second reading.

~~6. Motion is to approve the Interlocal Agreement with the Washington State Criminal Justice Training Commission for fleet maintenance in exchange for use of their firearms range and to authorize the City Manager to sign the agreement substantially in the form as submitted.~~ [ED NOTE: This item was pulled at the request of Councilmember Petersen.]

7. Motion is to approve the agreement for electrical service and ballfield lighting installation at the Steven J. Underwood Memorial Park with Rakoz Electric Inc, in the amount of \$171,237.00 plus tax, and 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.

8. Draft Ordinance No. 03-172 [ASSIGNED ORDINANCE NO. 1440] - Title: An Ordinance of the City of Des Moines, Washington, vacating a portion of City right-of-way in an area generally described as a portion of public right-of-way commonly known as South 208<sup>th</sup> Street, between 11<sup>th</sup> Avenue South and 12<sup>th</sup> Avenue South, together with an abutting unopened alley, in the City of Des Moines, subject to the applicant's compliance with requirements set forth herein. [ED Note: Councilmember Sherman recused himself from participation in the vote on this item.]

MOTION is to approve Draft Ordinance No. 03-172 on final reading.

9. Motion is to authorize the City Manager to sign the contract with Lawhead Architects. P.S. for professional architectural and engineering services relating to the renovation of City Hall. The contract shall be in the amount of \$30,000 and shall be in a form as approved by the City Attorney.

Councilmember Sherman advised that he will recuse himself from voting on Consent Item #8.

Councilmember Petersen requested that Consent Item #6 be removed for discussion.

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

#### REMOVED CONSENT ITEM

##### Item #6 Interlocal Agreement With Washington State Criminal Justice Training Commission

Councilmember Petersen expressed concern that the billing rate of \$50.00 per hour and oil change, lube and safety inspection conducted at a fixed cost of \$30.00, is too low and that most of this would be taken up with cost of products.

Public Works Director Heydon stated that the billing rate is for labor and parts, and that materials are over and above that amount. He suggested that the paragraph be expanded to articulate that more specifically.

Mayor Pro Tem Thomasson expressed concern that the rate may compensate the City for labor, but does not pay for the investment the City has in the shop facilities, tools and equipment. He also felt some concern over the amount of vehicles that the City is committed to servicing that is noted at 20. He questioned how large the City's existing fleet is.

Public Works Director Heydon responded that the City currently has about 60 vehicles. However, he pointed out that the 20 vehicles from Training Commission, are not used particularly hard, and the City is not expecting complex serious work. He noted that should the work become burdensome there is a 30 day clause for terminating the contract. He is of the opinion that this is a way to bring some income in for equipment rental. He noted that the Finance Director did establish a \$64 per hour cost that would include all overhead costs. He advised that the \$50 amount was established as it does cover labor costs and a little bit of the shop costs, and the other factor is that the Police Department gets the use of the Commission's firing range.

Mayor Pro Tem Thomasson requested that Council be furnished with a report on how this agreement is working out in six months.

Upon questioning by Councilmember Benjamin, Public Works Director Heydon advised that the \$50.00 an hour rate was established as this is the way the City's payroll system is set up and it makes it easier to deal with, and makes billing straight forward.

Upon questioning by Mayor Sheckler, Police Chief Baker noted that the Police Department program includes firearm training, which is a recurring activity. He advised that the time and travel costs to go to distant ranges to complete the required training used a lot of regular labor hours, as well as overtime hours. He noted that availability of the firing range in Burien cuts down travel time and can even be accomplished during on-duty time in some cases, which would avoid overtime costs. He projected that the cost savings over a years time could be quite substantial.

Councilmember Steenrod commended the Public Works and Police Department for this idea and noted that she would like to see more agreements along this line.

**MOTION** was made by Councilmember White, seconded by Councilmember Petersen, to approve the Interlocal Agreement with the Washington State Criminal Justice Training Commission for fleet maintenance in exchange for use of their firearms range and to authorize the City Manager to sign the agreement substantially in the form as submitted. Motion passed unanimously.

#### 8:07 p.m. Executive Session

Mayor Sheckler announced that the Council will hold an Executive Session.

City Attorney Marousek advised that Council will be in an Executive Session for approximately 15 Minutes to discuss with legal counsel representing the City litigation or potential litigation to which the City is, or is likely, to become a party and about which public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the City.

The Executive Session was attended by Mayor Sheckler, Mayor Pro Tem Thomasson, Councilmembers Benjamin, Sherman, Steenrod and White. Absent: Councilmember Petersen. Also in attendance were Assistant City Manager Loch and City Attorney Marousek.

No formal action was taken

#### ADJOURNMENT

At 8:18 p.m. the Executive Session was adjourned and Council reconvened into open session.

#### PUBLIC HEARING

Draft Ordinance No. 04-053 Textual Zoning Code Change Towing Yards in PR-C1 Zone - 1<sup>st</sup> Reading  
[ED NOTE: Councilmember Petersen left the Council Chambers.]

Mayor Sheckler introduced the subject and City Attorney Marousek read the Council's Rules of Procedure for conducting the Public Hearing.

Mayor Sheckler declared the hearing open.

Community Development Director Kilgore advised that the draft ordinance reflects the Council direction from July 2000, to have staff revise the Pacific Ridge PR-C1 zone to allow expansion of motor vehicle towing yards subject to a Conditional Use Permit (CUP). Council also directed staff to have the CUP expire when the establishing family no longer owns the business. She pointed out however, based on further research, Administration has concluded that a CUP runs with the business and not the owner. She noted that for this reason the draft ordinance does not include the provision as previously directed by Council. She advised that towing yards both in the short and mid-term are compatible with other automotive uses. She concluded by informing Council that no comments have been received and no appeals have been filed during the 60 day review period.

Mayor Sheckler called for speakers three times. There were none.

Upon Council questioning, Community Development Director Kilgore noted the following:

- Original Pacific Ridge Zoning did not include motor vehicle towing yards as a permitted use.
- Concerns were expressed by owners of the vehicle towing yard regarding expansion.
- The vehicle towing yard is an existing non-conforming use, which would not allow expansion of the existing facility, but would allow normal upkeep.
- Draft ordinance would allow expansion or modification of existing towing yards through a Conditional Use Permit.

Mayor Pro Tem Thomasson noted that Council determined that towing yards were not part of the vision for the Pacific Ridge area, but wished to find a way to allow the existing business to continue, but only within the space it currently had. He questioned how flexibility might be handled for non-conforming uses through the Hearing Examiner, as opposed to out right permitting them through a Conditional Use, and dealing with the non-conforming use on existing property, as opposed to expansion.

Community Development Director replied that the only way would be to make it a Conditional Use.

Mayor Pro Tem Thomasson questioned whether this use could be tied to “x” number of years, as this would give limited permission for a period of time, similar to an abatement. He suggested that the City Attorney look at this idea.

Councilmember Sherman remarked that the Pacific Ridge Zone was established because the City needs an area of economic growth and development. The highway area was chosen as having the least amount of impact on the rest of the community, and would also allow for more dense population as mandated by the State. He noted that vehicle towing yards was not determined to be the type of business that the City wished to attract. He noted that it will take some time to see the vision come to fruit, but if the Council “chips away” at the vision planned, we will never get there. He stated the City needs increased income and he questioned how much income from property taxes and sales taxes a towing yard would produce compared to the potential best and highest use, which would be a minimum of a three story structure and up to a five story structure. He also questioned what effect there would be on population density if the towing yard is allowed to stay or even expand, would that mean other parts of the City would have to take increased densities.

Councilmember Steenrod noted that the Pacific Ridge Area Vision is a good one, but an extremely long term vision. She recommended that while the vision is maintained, the City should not drive out existing businesses. She felt that if the strict zoning laws do not allow existing businesses to continue, the City will wind up with vacant lots. She questioned whether adult video stores are a permitted use.

Community Development Director noted that adult video stores are a permitted use in the PR-C1 zone.

It was noted that the vehicle towing business has been in existence for approximately 40 years.

Upon questioning by Councilmember Sherman, Community Development Director noted that she has not had inquiries for large hotels or other large users in the Pacific Ridge area. She further noted that the City has had a heavy marketing program and that the South King County Economic Development Initiative has helped to promote the Pacific Ridge Area. She noted that there is no way of determining the economic impact of allowing the vehicle towing yard to continue as there is no other use pending, she further noted that although mixed use would be permitted in the PR-C1 zone, it would be more appropriate on the east side of the highway, therefore any impact on density would be minimal if the towing yard expanded.

Community Development Director Kilgore felt that once the Pacific Highway South Improvements are complete, there may be more incentive for development. She felt that the Highline Community College expansion may also help.

Councilmember Benjamin noted that it appears that the Council is in favor of economic development, but it is important to keep successful existing businesses and support them.

Councilmember Steenrod questioned how many times the Police Department may have had to respond to calls to the towing business. She noted that the vision for this area sounds great, but if she were stalled on I-5 she would prefer a towing company that was close to the Highway. She felt as a practical matter it makes sense to have this facility exactly where it is to service the

public. She stated that she felt it would be a serious mistake to not fix the Code so that this business can continue to operate, at least on an interim basis.

In regards to the draft ordinance, Section 13(d), Mayor Pro Tem Thomasson asked that if the towing yard expanded and built a new structure, would it have to be three stories. Community Development Director Kilgore responded in the affirmative.

Mayor Pro Tem Thomasson felt that language could be added to state that automobile storage in conjunction with a towing yard must be totally enclosed, and questioned why that was not included. Community Development Director Kilgore stated that it was felt that with appropriate screening and landscaping it could be concealed. Mayor Pro Tem Thomasson noted that it would be concealed from traffic, but not a three story building next door.

Mayor Pro Tem Thomasson questioned whether, in terms of structure, does the Conditional Use Permit only apply on the expansion area, or the whole site, and does the whole site become subject to whatever conditions result from the Permit.

City Attorney Marousek responded that the original draft ordinance stated that the whole site, both the existing use and the expanded use, were subject to the Conditional Use Permit. However, land use experts note that you cannot expand a use that is not a permitted use. Therefore, the draft ordinance makes the towing yard a permitted use, and the expansion of that subject to a Conditional Use Permit.

Mayor Pro Tem Thomasson commented that it is not clear in the draft ordinance whether the Permit requirements pertain to the entire parcel, old and new, or only to the new. City Attorney Marousek advised that she believes that the Permit requirements would only apply to the expansion and that was how the ordinance was drafted. She noted that if Council choose, they could make a towing yard a Conditional Use and then conditions could be applied to the whole site.

Community Development Director Kilgore felt that it would be very difficult to place new conditions on an existing permitted use, that the owner would have to meet.

Mayor Pro Tem Thomasson further noted that changes to the existing use could trigger other requirements such as storm water retention.

Councilmember Benjamin expressed concern that the business looks different today than it did two months ago as far as access to and from the property. He felt it may not be accurate to state that the business can continue to operate as it always has. He noted that the Highway Improvement Project has taken property away from the business, making it difficult for large tow trucks to maneuver.

Public Works Director Heydon acknowledged that the property in question did change. However, he noted the following:

- New sidewalk is only about a foot or two into where the original property was located and to minimize impacts there will be no planter in front.
- The City purchased 7 feet of property, part of which is still available for the owners use.

- The owner had been using part of the right-of-way since it was not being utilized for road purposes as it is now.
- Worked with the property owner to minimize curb cuts.

Councilmember Steenrod commented that by taking the seven feet of property, Pacific Highway South became elevated. She felt that if the property owner was not aware of this change in elevation, then Council should be aware of this and take it into consideration. Public Works Director Heydon responded that there is a curve in front of this property and therefore there is a slope to the roadway to compensate for the curve, which in turn changes the elevation. He noted that the City has been working with the property owner on the elevation issue and it has been agreed to by both parties.

Mayor Sheckler closed the public hearing.

**MOTION** was made by Councilmember Benjamin, seconded by Councilmember Steenrod, to pass draft Ordinance No. 04-053 amending DMMC 18.31, provisions regarding towing yards in the Pacific Ridge PR-C1, zone to a July 8, 2004 second reading. [ED NOTE: Motion later withdrawn.]

Mayor Pro Tem Thomasson commented that he felt there are several questions that need to be dealt with before Council can take final action on this draft ordinance. He noted the following issues that he has concerns with:

- Expansion questions versus making minor improvements to the existing non-conforming use.
- Should the towing operation be allowed to expand to the parcel next door, when to him it is not compatible to the vision of the Pacific Ridge Area.
- To allow it to expand, would make the vision unattainable, or significantly delays or hampers achieving it.
- While in support of existing business, it does not do the neighborhood, or what Council envisioned, justice by allowing the use to expand.
- If allow towing yards, may need to allow other uses such as automobile sales.

Because of these issues, he noted that he is going to vote in opposition of a second reading.

Councilmember Sherman expressed agreement with some of the issues raised by Mayor Pro Tem Thomasson because of the long term use. He stated that he would like a land development expert to look at this area, give a time line for the vision Council established, determine if Council has been realistic with the zoning, and determine what effect making a towing yard an outright permitted use would have on new development. He advised that until he has answers to these issues, he is not ready to pass the ordinance to a second reading.

Councilmember Benjamin commented that 50 years from now he would rather see a towing yard operation in this area than an adult video store. He noted that perhaps the outside market will indicate the actual direction of development. He stated that in the meantime this business has operated successfully for 40 years in an area that has been largely unsuccessful as far as business development and retention, and the City can learn from this. He voiced support in allowing this business to continue and grow, and provide employment.

Mayor Pro Tem Thomasson stated that legally the City must allow a place for adult type businesses to exist.

Councilmember Sherman stated that when the towing yard was established the City was very different, and what was once appropriate may not be appropriate today. The City needs to change and he feels that Council's vision for the area is consistent with demographic changes to the City.

Councilmember White felt that an economic development specialist should be consulted before Council makes any final decision on this issue.

Councilmember Steenrod felt that Council needs to look at alternatives should the towing yard leave the City. She noted that there is no current redevelopment happening in the area. She felt the Council needs to look at short term goals that will make this work for now, and at the appropriate time, for something to take its place.

City Attorney Marousek advised that should the current motion on the table fail, the issue is dead. However, if the motion should pass there is time to make further changes. If Council wishes more time to discuss the issues and questions raised, then she would suggest the motion should be to continue the matter.

9:55 p.m. Mayor Sheckler called for a 10 minute break.

The maker and seconder of the motion on table, WITHDREW THE MOTION.

**MOTION** was made by Councilmember Sherman, seconded by Councilmember Steenrod, that the matter be continued for approximately three months, date to be ascertained by Administration. Motion passed unanimously.

#### AGENDA REVISION

Mayor Sheckler advised that he will take New Business Item #3 next.

[ED NOTE: Councilmember Petersen returned to the Council Chambers.]

#### NEW BUSINESS

##### Proposed Changes to Bus Service

Public Works Director Heydon noted that in March 2004, King County Metro Transit proposed changes to bus service in south King County. He noted the most controversial change for Des Moines was the elimination of certain mid-day express routes from Burien and Des Moines into Seattle and increasing the frequency of service from Burien into Seattle along the local service route on Ambaum and Delridge. He advised that King County Councilmember Julia Patterson has worked on the issue by negotiating for additional express routes and as a result the King County Transportation Committee on Wednesday, voted to restore eight of the mid-day express routes. He noted the Committee recommendation will be considered by the full County Council on Monday, May 18<sup>th</sup> at 1:30 p.m. He introduced Victor Obeso, Supervisor of Service Planning for King County Metro.

Mr. Obeso noted that since the full County Council will be meeting Monday morning, any comments that the Des Moines Council should have would best be made by tomorrow. He proceeded to review the material supplied to Council noting the following:

- Focus of improvements was the Ambaum Delridge corridor, between Burien and Seattle.
- Primary objective was to treat Burien as a destination, as a key transportation transit hub and to make travel to the Burien area, and from there connections to the Des Moines community easier and more convenient for many more people.
- Primary proposal was to create a 15 minute service on the corridor that would offer this service until 7 p.m., providing much more service to the south bound area than it currently receives.
- The south bound corridor has seen significant growth over the past 10 years.
- Primary impact upon riders from Des Moines is the consolidation of service on express routes.
- Originally mid-day express trips were to be reduced, but after public meetings this has been adjusted upward to allow 13 trips, mainly through the efforts of Councilmember Patterson.

**MOTION** was made by Councilmember Sherman, seconded by Councilmember White, that Administration prepare a letter tomorrow supporting Councilmember Julia Patterson's recommendations to increase the express service over the original recommendation, and that Des Moines appreciates the important service improvements brokered by Councilmember Patterson.

It was noted that due to time constraints, this letter will need to be e-mailed to King County Councilmembers tomorrow.

Mayor Pro Tem Thomasson questioned whether this proposal has been accepted by the King County Executive.

Mr. Obeso advised that yesterday the King County Transportation Committee adopted an amended ordinance that includes the 13 mid-day express routes.

Mayor Pro Tem Thomasson felt that the appropriate wording in the City's letter would be Des Moines supports the amended ordinance.

Upon questioning by Councilmember Steenrod, Mr. Obeso stated that on the Ambaum Delridge corridor, which takes 12 minutes longer than the express service, buses will run more frequently and later into the evening, and more frequently on week-ends.

Mr. Obeso also advised that there will be more new buses with low floors, easier to board and will be air conditioned.

Upon questioning by Assistant City Manager Loch, Ted Day of Metro advised that the Kent-Des Moines park and ride has four routes that are express to downtown Seattle and take about 20-25 minutes. He noted that the Star Lake park and ride has two routes. He concluded by noting a new park and ride will be opening at Pacific Highway South and South 277<sup>th</sup> this Fall.

**VOTE ON MOTION:** Motion passed unanimously.

Other New Business Items

**MOTION** was made by Mayor Pro Tem Thomasson, seconded by Councilmember Steenrod, that all remaining items on the Agenda be continued to a date to be selected by the Mayor. Motion passed 6 to 1 with Councilmember Benjamin opposed.

NEXT MEETING DATE

Mayor Sheckler announced that the next regular meeting will be May 27, 2004.

ADJOURNMENT

At 10:28 p.m. **MOTION** was made by Councilmember White, seconded by Councilmember Steenrod and passed unanimously, to adjourn.

**ACTION ITEMS FROM May 13, 2004 MEETING**

- Administration to prepare draft legislation for Code Enforcement regarding property upkeep and maintenance.
- Administration to prepare draft legislation for the November ballot to ask voters for a levy lid-lift should Initiative 864 pass.
- Staff to prepare a six month status report for Council's review on the Interlocal Agreement regarding Vehicle Maintenance with the Washington State Criminal Justice Training Commission.
- Letter of support for the amended service changes for Metro express bus service.