REGULAR MEETING OF THE DES MOINES CITY COUNCIL

MINUTES May 14, 1998

The regular meeting of the Des Moines City Council was called to order by Mayor Thomasson at 7:34 p.m. in the Council Chambers, 21630 11th Avenue South.

Pledge of Allegiance to the Flag was led by Councilmember Kaplan.

ROLL CALL - Present: Mayor Scott Thomasson, Mayor Pro Tem Terry Brazil, Councilmembers Dave Kaplan, Bob Sheckler, Dan Sherman, Gary Towe and Don Wasson. Also present were City Manager Bob Olander, City Attorney Gary McLean, Community Development Director Judith Kilgore, Senior Planner Robert Ruth, Public Works Director Tim Heydon and City Clerk Denis Staab.

COMMENTS FROM THE PUBLIC

Ms. Bergman, 21628 28th Avenue South

Ms. Bergman reminded Council that they were elected to serve the citizens of the City. She proceeded to list the following items of concern in her neighborhood:
- Weeds not kept mowed properly
- Triplex in the area has had broken windows for 3 years, never replaced
- Garbage dumpsters not properly screened
- Drug dealing activity
- Took over a month to have abandoned vehicle towed away
- Non-response to 911 calls

BOARD & COMMITTEE REPORTS

Suburban Cities Association

Councilmember Sherman announced that Suburban Cities Association held elections this past week, and Mayor Pro Tem Brazil was elected to the position of Secretary Treasurer.

Public Safety and Transportation Committee

Councilmember Sherman advised that the Committee met earlier this evening to review the City's Six Year Transportation Plan. He noted that there are no new items of concern and this will come before Council soon for a Public Hearing.

Ad Hoc Zoning Committee

Councilmember Wasson announced that the Committee will meet tomorrow at 2:30 p.m. to continue review of the City's zoning map.

ADMINISTRATION REPORTS

Council Spring Retreat

City Manager Olander reminded Council that he would like any potential agenda topics for Council's upcoming retreat in to him by next Monday or Tuesday.

CONSENT CALENDAR was read by City Clerk Staab and City Attorney McLean.

1. Motion is to approve the minutes of April 23 and May 7, 1998.
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 #61406 through #61723 in the total amount of $495,938.27
    Payroll fund transfers in the total amount of $212,073.85
3. Motion is to approve surplusing of Police Department Vehicles as listed on attached memo and authorize disposing of by auction, sale or transfer to other department or agencies.
4. Motion is to authorize the City staff to bid the 10th South Culvert Replacement and Intersection Improvement Project for construction.
5. Motion is to authorize the City staff to bid the South 204th Street Drainage Trunkline Project for construction.
6. Motion is to set a public hearing on May 28, 1998 to consider a request for open space tax reduction through the King County Benefit Rating System program; Applicant: Rick King.
7. Motion is that a public hearing be scheduled for May 28, 1998, to allow public comment regarding the textual code amendments associated with Community Commercial zoning.
8. Motion is that the City Manager be authorized to 1) sign the contract amendment substantially in the form as attached with King County for receipt of $23,396; 2) sign the contract substantially in the form as attached with Department of Ecology for receipt of $24,397; and 3) contract for services for a compost bin distribution event.
9. Motion is to award the construction contract for the 1998 Arterial Maintenance Project to Western Asphalt Inc., in the amount of $262,099.35 and further authorize the City Manager to sign said contract substantially in the form as attached.
10. Motion is to award the contract for professional engineering services for updating the Des Moines Comprehensive Stormwater Management Plan to R. W. Beck, Inc. in the amount of $79,956 plus a 10% contingency, and further to authorize the City Manager to sign said contract substantially in the form as attached.
11. Motion is to award the contract for professional engineering construction management services for the 1998 Arterial Maintenance Project to Harding Lawson Associates Infrastructure, Inc. in the amount of $33,067 plus a 10% contingency and further to authorize the City Manager to sign said contract substantially in the form as attached.
12. Motion is to award the contract for professional engineering design services for the 7th Avenue Local Improvement District (LID) Project to Harding Lawson Associates

Infrastructure, Inc. in the amount of $24,322.00 plus a 10% contingency and further to authorize the City Manager to sign said contract substantially in the form as attached.
13. Motion is to supplement the contract for professional engineering construction management services for the Des Moines Creek Trail Project with Harding Lawson Associates Infrastructure, Inc. in the amount of $26,933.00 and further to authorize the City Manager to sign said contract substantially in the form as attached.
14. Motion is to award the contract for the 6th Avenue South Feasibility Study to Kato & Warren Inc., in the amount of $40,482.41 plus a 10% contingency and further to authorize the City Manager to sign said contract substantially in the form as attached.
15. Motion is that a public hearing be scheduled for May 28, 1998 regarding SEPA amendments.
16. Draft Ordinance No. 98-130 ***[ASSIGNED ORDINANCE NO. 1213]*** - Title: An Ordinance of the City of Des Moines, Washington relating to the traffic code and amending DMMC 10.16.050, which regulates parking of oversized vehicles on City streets.

TWO MOTIONS: First motion is to suspend Council Rule 26b. Second motion is to approve Draft Ordinance No. 98-130.

MOTION was made by Councilmember Sherman, seconded by Councilmember Wasson, to approve the Consent Calendar as read. Motion passed unanimously.

PUBLIC HEARING

1999 CDBG Program Policies

Mayor Thomasson introduced the subject. Upon questioning by City Attorney McLean it was noted that there was no one in attendance who wished to address the Council. The public testimony portion was considered closed.

Community Development Director Kilgore informed Council that the initial estimate of the City's funds is $246,186. She noted that this dollar amount will not be final until July and potentially may be higher. She advised that in order to be eligible to receive Community Development Block Grant funds for 1999, the City must take the following actions: 1) Decide to accept Des Moines' 1999 CDBG allocation in the estimated amount of $246,186 using program policies to guide allocations of the funds, 2) Decide whether to reserve a portion of the funds for public services, 3) Decide whether to reserve a portion of the funds for planning and administration, 4) Decide how much, if any to allocate to the housing repair program, and 5) Decide whether to allocate Des Moines' portion of program income to support the consortium-wide emergency shelter programs. This is the first step in a two step decision making process. Later in the year the Council will be asked to make decisions on specific projects. Those decisions must be consistent with the actions Council makes now.

Community Development Director Kilgore brought two other items to Council's attention with comments as noted:

- *Housing Repair Program* - Council allocated $15,000 in 1998. Ms. Kilgore informed Council that this amount was gone in the month of January. She felt this was mainly because King County has really been marketing the program. She advised Council that King County has suggested that $35,000 may be a more appropriate amount to cover the needs of our residents. Upon questioning by Council, she stated that 2 of 7 applicants received funding, which depleted the $15,000.

- *Four Year Strategies* - Ms. Kilgore advised that the current Strategies are for four years and in the year 2000 new ones will need to be adopted, which will be done next year. She responded to Council questioning that this is part of the Consortium wide Plan that a public process be held every four years to determine whether community needs have changed.

MOTION was made by Councilmember Towe, seconded by Councilmember Sheckler, that Des Moines accept its 1999 Community Development Block Grant entitlement funds. Motion passed unanimously.

MOTION was made by Councilmember Towe, seconded by Councilmember Sheckler, that the policies included as Attachment 1 to the agenda item summary be used to guide Des Moines 1999 CDBG allocations.

MOTION was made by Mayor Thomasson, seconded by Councilmember Towe, that the motion include that the Program Strategies (Attachment 1) be amended to reflect Field House renovations and Senior Center land acquisition. Amendment passed unanimously.

MOTION was made by Mayor Thomasson, seconded by Councilmember Sherman, to delete Strategy 2, Action 3 in Attachment 1.

Councilmember Towe stated that he felt this action would be premature as these items are to be used only as a guide and Council is not obligated at this stage to follow through.

VOTE ON MOTION: Motion failed 4 to 3 by the following vote: YES: Mayor Thomasson and Councilmembers Sherman and Wasson. NO: Mayor Pro Tem Brazil and Councilmembers Kaplan, Sheckler and Towe.

VOTE ON MAIN MOTION: Motion passed 6 to 1 with Councilmember Wasson voting NO.

MOTION was made by Councilmember Towe, seconded by Councilmember Sheckler and passed unanimously, that the maximum allowable portion of Des Moines' 1999 entitlement funds be reserved for public services, planning, administration and that $35,000 be allocated to the Housing Repair Program.

MOTION was made by Councilmember Towe, seconded by Mayor Thomasson and passed unanimously, that Des Moines' program income be allocated to support the consortium wide emergency shelter program.

PUBLIC HEARING CONTINUED

Draft Resolution No. 98-057 ***[ASSIGNED RESOLUTION NO. 844]*** Shoopman Preliminary Plat - 18 Single Family Lots - File No. PP 97-077

Senior Planner Ruth noted that this hearing has been continued from the April 9, 1998, to allow staff to research some questions raised by Council. He advised Council that a revised preliminary plat and revised draft resolution are included in Council's packet. Mr. Ruth proceeded to review some of Council's questions and staff response as follows:

- *Does the King County street standards provide discretion to the decision making body whether the right-of-way should be 40' wide or something less than 40' wide?* Yes. Although the report recommended approval of the plat at a 31' wide right-of-way, the County standards state that the right-of-way width for this street is 40' provided that the decision making body agrees to reduce the width to something less than 40 feet.
- *Would it be beneficial to consolidate the Stormwater ponds identified as "Tracts A and B" into one tract?* Yes. This is reflected on the revised preliminary plat map in Council's packets.
- *Is the school impact fee a County development standard applicable to platting?* Yes, and the County also has an individual interlocal agreement with the Federal Way School District. Senior Planner Ruth further commented on this suggesting Council consider reducing the in lieu of park fee as Council has no authority to waive the school impact fee.
- *Is there a need for a park in the area where the proposed subdivision is located?* Yes, but according to King County regulations, the park space requirement has already been fulfilled by the oversizing of the drainage tract. Additionally, the applicant has agreed to pay for SEPA impacts to the park system which is above and beyond the County requirement.
- *Should the future sidewalk along the frontage of the proposed plat be extended north to the intersection of South 252nd Street?* This is a mitigation issue that Council must decide whether it should have been included to offset project impacts.
- *Should a buffer be provided between the proposed single family subdivision and the commercially zoned property to the east?* This is a mitigation issue that Council must determine. It is generally the responsibility of the owner of the commercially zoned property. However the commercial development already exists and is under the control of the City of Kent, therefor Council could require some buffering.
- *Is there adequate separation provided between the proposed water line extension into the plat and the proposed sewer line?* No, but since the last Council meeting, the Public Works Department has required that these lines be repositioned so that 10 feet separates the two lines.

Senior Planner Ruth concluded by stating the research into these issues has caused Administration to recommend that these changes as noted, be incorporated into the proposed plat design. He noted that in addition, the draft resolution has been modified to include recommended changes to condition of approval. He advised that Council needs to deliberate on the extension of the sidewalk beyond the proposed frontage improvements, and what amount of school impact fees should be imposed on the plat.

Since the public testimony portion of the hearing was left open, City Attorney McLean questioned whether anyone in attendance wished to address Council. There was no response.

City Attorney McLean noted that Mayor Pro Tem Brazil and Councilmember Sheckler were absent from the April 9th public hearing. He questioned the Councilmembers whether they had an opportunity to review the video tape of the earlier public hearing. Both Councilmembers replied in the affirmative. City Attorney McLean advised the two Councilmembers that the Appearance of Fairness Doctrine applies to this hearing and questioned whether there was any conflict. Both replied in the negative.

Mayor Thomasson declared the public hearing closed.

8:53 p.m. Mayor Thomasson called for a 10 minute break.

Upon questioning by Council, City Attorney McLean stated that the resolution and attached findings of fact would take precedence over the mitigation agreement.

MOTION was made by Councilmember Sherman, seconded by Councilmember Towe, to adopt Draft Resolution No. 98-057 (Community Development Department's Second Draft) approving the proposed preliminary subdivision for the Shoopman Subdivision, File No. PP 97-007.~~, subject to the terms of the environmental mitigation agreement and additional conditions and or modifications contained in said resolution.~~ (ED NOTE: Strike through indicates a later action to this main motion.)

Mayor Thomasson noted that after review of the County code concerning park space being reduced with retention pond, that the County code states that if the pond is fenced, then it does not count. He felt the question to Council is do they want a park space within the subdivision or in lieu of fees for park space.

Councilmember Sherman commented that Council has insisted on fencing the retention pond for safety reasons, therefore he does not feel it is fair to penalize the subdivision for this requirement.

Upon questioning by Councilmember Kaplan, City Manager Olander stated he does not have an exact figure for the cost of maintaining a small neighborhood park, but he advised that highly used small parks require a lot of maintenance. He assured Council that there are other opportunities close to this plat for development of a neighborhood park.

Councilmember Towe expressed the opinion that although he is sensitive to the cost of development in requiring a building lot being devoted to park space, he felt it is important to support the City's own codes and achieve the objectives of neighborhood parks. He stated that in the end having a park within the plat would be an attractive option to people wishing to purchase homes.

MOTION was made by Mayor Thomasson, seconded by Councilmember Towe, to amend the draft resolution to provide on site recreation space in accordance with King County Code 21A.14.180.

It was noted that Administration would need to determine the criteria on the storm water pond and the actual footage that would apply.

Councilmember Kaplan commented that there is a lot of potential future development in this area, and he felt the City should accept the in lieu of fee to develop a larger park in this area.

Mayor Pro Tem Brazil stated he would prefer to accept the in lieu of fee as there would be more City wide benefit in developing a larger park space.

Councilmember Sheckler noted that the builder would have to give up one lot to develop a very small park of really little overall benefit.

Councilmember Towe reminded Council of the small play area at the field house that holds the "ship". He stated he feels this is attractive and if a park is provided within the plat something equally attractive could be constructed.

VOTE ON MOTION TO AMEND: Motion failed 2 to 5 with Mayor Thomasson and Councilmember Towe voting YES.

MOTION was made by Mayor Thomasson, seconded by Councilmember Towe, to amend the main motion to provide that curb, gutter and sidewalk be extended to South 252nd Street from the northern edge of the subdivision.

Mayor Thomasson and Councilmember Towe noted that the increased traffic will create a hazard, therefor this is a justifiable safety feature that should be included in the subdivision.

VOTE ON MOTION TO AMEND: Motion passed 4 to 3 with Councilmembers Sherman and Wasson and Mayor Pro Tem Brazil voting NO.

MOTION was made by Mayor Thomasson to amend the main motion to require a 20 foot native growth protection easement be created along the eastern edge of lots 7 through 10, adjacent to the commercially zoned properties. MOTION DIED for lack of a second.

MOTION was made by Councilmember Sherman, seconded by Mayor Thomasson, that school impact fees applicable shall be applied and processed in a manner consistent with the Interlocal Agreement between Federal Way School District and King County. Motion passed unanimously.

Mayor Thomasson commented that he believes the lots are too small and out of character with the rest of the City.

MOTION was made by Mayor Thomasson to reduce the number of lots in the subdivision from 18 to 15 in order to be in better character with surrounding neighborhoods. MOTION DIED for lack of a second.

City Attorney suggested a friendly amendment to the ORIGINAL MOTION that the ending words "subject to the terms of the environmental mitigation agreement and additional conditions and or modifications contained in said resolution." be struck. He further suggested a motion that would be applied to the findings stating that the map is superior to the mitigation agreement.

MOTION was made by Councilmember Sherman, seconded by Mayor Thomasson, amend Finding Number 3 to add the following sentence: Such measures are ratified and confirmed by the City Council to the extent that they are not in conflict with the requirements and specifications depicted on the attached map, which is incorporated herein by reference and marked as Exhibit 1. Motion passed unanimously.

FRIENDLY AMENDMENT: Both the maker and seconder of the original motion agreed to strike the words: "subject to the terms of the environmental mitigation agreement and additional conditions and or modifications contained in said resolution."

Councilmember Towe remarked that although he will support the main motion, he agrees with Mayor Thomasson's thoughts that the proposed subdivision is sub-standard by Des Moines standards. He further noted that he does not feel that the applicant has adequately addressed mitigation matters. He concluded by stating that he regrets that Council did not require park space within the proposed subdivision and felt this is a missed opportunity.

VOTE ON AMENDED MAIN MOTION: Motion passed 6 to 1 with Mayor Thomasson voting NO.

MOTION was made by Councilmember Sherman, seconded by Councilmember Kaplan, to adopt the findings of fact identified as Attachment "A" to Draft Resolution No. 98-057 also included as Attachment 3 to the May 14, 1998 Administration report.

MOTION was made by Mayor Thomasson, seconded by Councilmember Kaplan, to amend the motion to add findings that support the safety concerns raised, and the action taken, regarding the sidewalk improvements. Motion passed unanimously.

VOTE ON MAIN MOTION: Motion passed 6 to 1 with Mayor Thomasson voting NO.

OLD BUSINESS

Interlocal with City of Federal Way Regarding Lakehaven Utility District

Councilmember Kaplan stated he read that apparently Federal Way is no longer pursuing the take over of Lakehaven Utility District. He questioned Administration as to where that left Des Moines in regards to the Interlocal we have with Federal Way.

City Attorney McLean remarked that the Agreement was conditional on the event that Federal Way prevailed on assumption of Lakehaven Utility. So, until that happens there is no impact on Des Moines.

NEXT MEETING DATE

Mayor Thomasson announced the next regular meeting is scheduled for May 28, 1998.

ADJOURNMENT

The meeting adjourned at 10:04 p.m.

Respectfully submitted,

Denis Staab
City Clerk