

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

June 8, 2006

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

PLEDGE OF ALLEGIANCE to the Flag was led by Mayor Pro Tem Thomasson.

ROLL CALL - Present: Mayor Bob Sheckler (left meeting at 8:32 p.m.), Mayor Pro Tem Scott Thomasson, Councilmembers Dave Kaplan (left meeting at 10:00 p.m.), Ed Pina, Carmen Scott and Dan Sherman. Absent: Susan White. Also in attendance were City Manager Tony Piasecki, City Attorney Linda Marousek, Finance Director Paula Henderson, Planning, Building and Public Works Director Grant Fredericks, Transportation Engineer Dan Brewer, Land Use Planner I Jason Sullivan, Land Use Planner II Denise Lathrop, Recreation Manager Bob Houston and City Clerk Denis Staab.

MOTION was made by Councilmember Scott, seconded by Councilmember Kaplan and passed unanimously, to excuse Councilmember White.

CORRESPONDENCE

E-Mail - Connie Boyle, Representing Harvey Groths

City Manager Piasecki reminded Council of Ms. Boyle's correspondence regarding Mr. Groths' property on Pacific Highway South, and S 252nd Street, asking the City to consider changing its boundaries with the City of Kent. He advised that the City of Kent is willing to look at changing the boundaries to allow the development that Mr. Groths wants to put on the property. He noted that part of Des Moines property would need to be used for access. He requested Council advise him if this is an issue Council may wish to discuss at a future meeting.

BOARD & COMMITTEE REPORTS

Public Safety & Transportation Committee

Councilmember Kaplan advised that the Committee met earlier this evening to review a long list of projects that need to be prioritized based upon available funding. He noted that items will be brought to Council in the near future dealing with short and long term issues.

Municipal Facilities Committee

Councilmember Scott reported that at a recent meeting the Committee discussed the changes that will be happening to Des Moines Memorial Drive in regards to the elms trees and the appropriateness of removing the Flag pole at the triangle east of the Marine View Drive Bridge, to install a memorial. The decision reached was the triangle is not big enough to hold a new tree, and since there is no safe place to park, and no easy pedestrian access, it not an appropriate place to make it a gathering place. It was felt alternate locations should be looked at as more appropriate.

COUNCILMEMBER COMMENTS

Dollars for Scholars Awards

Councilmember Scott reported she attended the Awards ceremony held at the Activity Center last night. She advised she was very impressed with the caliber of individuals that received the awards who are very dedicated to making the best of their selves through academic achievements.

Garage Sales

Councilmember Pina expressed concern over recent garage sales he has noticed in the City that seem to be a perpetual business rather than a one or two day event. He requested staff investigate drafting legislation to regulate garage sales as to maximum number per year that can occur, removal of signs, etc.

City Attorney Marousek advised that the Assistant City Attorney has been working in the past several weeks with the Code Enforcement Officer regarding this issue. She noted there are a number of existing ordinances that appear to be applicable to these issues and will allow for appropriate enforcement.

Dollars for Scholars Awards

Councilmember Sherman reported also attending the Awards ceremony for academic achievements. He acknowledged citizens, Rotary, Kiwanis, local businesses and City employees who contributed to make the financial scholarships a reality for kids in our community.

Garage Sales

Mayor Pro Tem Thomasson noted there are very explicit State regulations regarding a "casual" garage sale versus when it becomes a business. He felt this is something the City should follow-up on.

Noise Complaint

In regards to a complaint about noise in his neighborhood, Mayor Pro Tem Thomasson, advised that there are several parts of our Code that deal with noise. He stated that a neighbor was told one thing from the Police Department and yet when they phone City Hall they were quoted something different. He felt that the City should adopt a consistent message and that all police officers and Code Enforcement should know what the rules are and tell the same story.

Mt. Rainier High School - Special Event Permit

Mayor Pro Tem Thomasson commented he was surprised to learn that the School had been told to apply for a Special Event Permit for a normal school activity, since he felt this was not required. He noted he reported this to the City Manager who is following up on the issue.

PRESIDING OFFICER'S REPORT

Fire Chief Jim Polhamus Retirement

Mayor Sheckler announced that after 31 years, Fire Chief Jim Polhamus has announced his retirement commencing July 4, 2006. On behalf of the citizens of the City, City Council and staff, he presented Chief Polhamus with a plaque in recognition and appreciation for his 31 years of dedicated service.

Chief Polhamus thanked everyone for the recognition and advised that he will still be doing some work for the South King Fire and Rescue, and that both he and his wife plan to stay

actively involved in the community of Des Moines where he grew up, and that they very much enjoy living in.

Chief Polhamus received a standing ovation from everyone in attendance.

Certificates of Recognition

Mayor Sheckler presented a certificate of recognition to the group of individuals who he felt were directly responsible for the success of the passage of the Levy Lid Lift to increase funding for Law Enforcement. The individuals named were: Florence McMullin, Wayne Corey, Mike Adams, Madge Hanson, Midge Lewis, Judy Mannard, Sherri Rudlund, Barry Sellers and Kevin Tucker.

ADMINISTRATION REPORTS

Pacific Ridge Area - Use of Property

City Manager Piasecki informed Council that in regards to Mr. Johnson's property, after reviewing all the circumstances, and the fact that he has owned the property since 1992, it has been decided that Mr. Johnson can continue the existing use of the property.

In regards to Mr. Bjorneby's property, City Manager Piasecki advised that he is continuing to work with the owner and that Mr. Bjorneby is actively working to find a use for the property that is allowed in the existing Code.

Comcast Cable

City Manager Piasecki noted that this is the time of the year that Comcast Cable has the right to increase the very basic part of their rates, and Council gets to decide if it is appropriate. He noted Council's decision is governed by Federal Law, therefore he has asked a consultant to review Comcast's rate filing. The consultant has advised that the rate filing is compliant with all Federal guidelines. He informed Council the good news is that Comcast has filed for less increase that they are legally allowed to do. He further advised that during the consultant's review, it was determined that Comcast may be charging B & O Tax and Utility Tax inappropriately. He noted he will follow-up to ensure that Comcast is filing appropriately and it may result in a little less utility tax being charged on customers bills.

Chickens at Activity Center

City Manager Piasecki reported that they are no more chickens at the Activity Center.

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the regular minutes of May 11 and 25, 2006.
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 #104343 through #104515 & electronic fund transfers in the total amount of \$727,744.71

Payroll fund transfers in the total amount of \$376,582.02

3. Motion is to confirm Mayor Sheckler's appointment of Elizabeth Brant to a vacant position on the Human Services Advisory Board. This term will be effective immediately and expire December 31, 2007.
- 4.A Motion is to purchase a slope easement of 1,063 square feet of land from Bernard and Lena Straight in the amount of \$5,900 plus closing costs and to authorize the City Manager to sign the payment request substantially in the form as submitted and accept the slope easement on behalf of the City of Des Moines; and
- 4.B Motion is to purchase a slope easement of 40 square feet of land from Charles W. and Patricia L. Bush in the amount of \$600 plus closing costs, and to authorize the City Manager to sign the payment request substantially in the form as submitted and accept the slope easement on behalf of the City of Des Moines.
- 4.C Motion is to purchase a slope easement of 253 square feet of land from Brian T. and Kimberly M. Konopaski in the amount of \$2,500 plus closing costs and to authorize the City Manager to sign the payment request substantially in the form as submitted and accept the slope easement on behalf of the City of Des Moines.
- 4.D Motion is to purchase a slope easement of 222 square feet of land from Charles H. and Yen N. Pan in the amount of \$2,600 plus closing costs, and to authorize the City Manager to sign the payment request substantially in the form as submitted and accept the slope easement on behalf of the City of Des Moines.

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

AGENDA REVISION

Mayor Sheckler announced that he may need to leave the meeting early, and since the budget amendment requires a vote of five members to approve, he will take that item of New Business first.

NEW BUSINESS

Draft Ordinance No. 06-137 [ASSIGNED ORDINANCE NO. 1380] 2006 1st Quarter Budget Amendments

Finance Director Henderson advised that the proposed ordinance will amend the 2006 Budget by adding appropriations to cover the expenditures incurred for projects that were carried over into 2006, will include certain grants that have been awarded but not previously included in the adopted budget, and will authorize expenditures previously approved or proposed for the City Council's approval. She proceeded by reviewing the changes to the various funds, including the appropriations for the 2006 slide emergency repairs for the Arterial Street Fund and Surface Water Management Capital Fund. .

MOTION was made by Councilmember Kaplan, seconded by Councilmember Scott, to suspend Council Rule 26(b) in order to enact the draft ordinance on first reading.

Upon questioning by Mayor Pro Tem Thomasson, Transportation Engineer Brewer advised that the damage to the Saltwater Bridge was partially caused by drainage issues and part was not, therefore the costs were split between arterial and surface water management.

VOTE ON MOTION: Motion passed unanimously.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Pina and passed unanimously, to adopt the draft ordinance.

City Manager Piasecki read the ordinance by title into the record.

OLD BUSINESS

Draft Resolution No. 06-138 [ASSIGNED RESOLUTION NO. 1012] Des Moines Criterium Bicycle Race

Mayor Sheckler introduced the item noting the proposed Resolution and agreement would authorize the Union Bay Cycling Club and Wines of Washington to host the "Des Moines Bike Criterium" on July 2, 2006 in Des Moines.

Recreation Manager Houston distributed an updated map showing the bicycle race course between South 226th and South 222nd along 6th and 7th Avenues South, agreed on by all parties including engineering and the police department. He noted the hours of the event will be 7:45 a.m. to 5:00 p.m. He further noted that the excess funds from the event are to be donated to the Des Moines Legacy Foundation, in support of the Des Moines Police department bike helmet safety program for children. He introduced Rob Anderson, event promoter from Union Bay Cycling Club.

Mr. Anderson noted that there is an access route provided on 7th Avenue for any business traffic and a temporary access route is provided on the south side for residential access. He advised that the entire course will be outlined in cones, and key spots will have "corner marshals" to answer questions and be able to direct the flow of traffic. He further noted that signs will be used to direct Marina traffic on where to enter and exit the Marina on South 227th. He pointed out "blue dots" on the map which will be six police officers.

MOTION was made by Councilmember Sherman, seconded by Councilmember Kaplan, to adopt the draft resolution authorizing the Union Bay Cycling Club and Wines of Washington to host the Des Moines Bike Criterium on July 2, 2006, in downtown Des Moines and direct the City Manager to provide support services and amenities for the event as proposed in Draft Resolution 06-138.

Councilmember Sherman commented that this seems to be a great local event, with appropriate access, and perhaps will encourage others to bike ride. He reminded everyone to wear helmets when biking.

Councilmember Scott pointed out that the agreement calls for complete site clean-up within 24 hours following the event, while the draft resolution says they will have up to 10 days to remove all signage. The maker and second of the motion accepted a FRIENDLY AMENDMENT to change the resolution, Section 1(6), to match the agreement. She felt the City should support this event as part of the "Waterland Season".

VOTE ON MOTION: Motion passed unanimously.

MOTION was made by Councilmember Sherman, seconded by Councilmember Scott and passed unanimously, to enter into an Agreement between the City of Des Moines and Union Bay

Cycling Club for the 2006 Des Moines Bike Criterium as proposed in Draft Resolution 06-138 and authorize the City Manager to sign the Agreement substantially in the form as submitted.

8:30 p.m. Mayor Sheckler left the Council meeting, and Mayor Pro Tem Thomasson became Presiding Officer for the remainder of the meeting.

PUBLIC HEARING

Draft Resolution No. 06-109 [ASSIGNED RESOLUTION NO. 1013] 6 Year Transportation Plan for 2007-2012

Mayor Pro Tem Thomasson noted this item has been reviewed by the Public Safety and Transportation Committee.

City Attorney Marousek advised that this is a Legislative Public Hearing.

Mayor Pro Tem Thomasson declared the Public Hearing open.

City Attorney Marousek was advised that no one had signed up to speak during the public hearing. She stated that should someone decide to speak, a copy of the rules of order are available near the sign-up sheet that are applicable to this hearing. She requested City Administration describe the matter under consideration

Transportation Engineer Brewer reminded Council that each year the City of Des Moines, and all cities and counties in Washington, submit a Six-Year Transportation Improvement Program to the State. The purpose of these plans is not only to provide a planning tool for the individual agencies, but also to provide a consistent method of coordinating interagency needs and funding requirements. He proceeded to review the project lists noting that the Arterial Maintenance Program was renamed to Pavement Manager Program, the Neighborhood Traffic Control Program was renamed to Neighborhood Traffic Calming Program and noted modifications include the project phasing of the Des Moines Creek Trail and improvements to South 216th Street. He advised that two project have been removed from the list: South 216th/24th Intersection Improvements as this will be completed in 2006, and "Block Grant Projects" as the intended improvements are covered under another project already on the list. He advised four programs/projects have been added: 1) Sign Change Out Program, 2) Guardrail Program, 3) Day Labor Program, and 4) a project at Marine View Drive and South 272nd Street. In conclusion, he stated that the project priorities are influenced by safety needs, capacity needs, concurrency and general development activity.

Mayor Pro Tem Thomasson, called for speakers three times. There was no response.

Mayor Pro Tem Thomasson felt the title "Day Labor Program" is not very descriptive. He would prefer "Traffic Control Program".

In regards to priority Number 19, 24th Avenue South Improvements - Phase I, Mayor Pro Tem Thomasson felt that the South 216th north section would be a higher priority. Transportation Engineer Brewer noted that in trying to coordinate the 24th/28th corridor, and how it gets tied in with the SR 509 corridor, was the consideration given to place this at #19.

City Manager Piasecki advised that a great deal will be known once we get through the second development agreement with the Port of Seattle. He noted it is anticipated this will be complete by the end of this year.

Mayor Pro Tem Thomasson declared the Public Hearing closed.

MOTION was made by Councilmember Pina, seconded by Councilmember Kaplan to approve the draft resolution adopting the 2007-2012 Six-Year Transportation Program for the City of Des Moines.

Mayor Pro Tem Thomasson read the resolution by title into the record.

Councilmember Sherman commented that Council needs to preserve its largest capital asset in the City which is our roads.

MOTION was made by Councilmember Sherman, seconded by Councilmember Kaplan, to amend by having Priority #20, 24th Ave. S Improvement Phase 2, take priority over #19, 24th Ave. S Improvement Phase 1. Motion passed unanimously.

VOTE ON MAIN MOTION: Motion passed unanimously.

9:07 p.m. Mayor Pro Tem Thomasson called for a 10 minute break.

PUBLIC HEARING

Preliminary Plat - Maslow

Mayor Pro Tem Thomasson introduced the subject.

City Attorney Marousek advised that this is a Quasi-Judicial hearing and inquired whether any Councilmember may wish to be excused under the Appearance of Fairness. There were none.

City Attorney Marousek requested all parties wishing to speak during the public hearing raise their hands. City Manager Piasecki, Development Services Manager Ruth and Land Use Planner I Sullivan raised their hands and the City Attorney administered an oath that their testimony, under penalty of perjury, will be true and accurate to the best of their knowledge.

Land Use Planner I Sullivan displayed an aerial photo of the site which is bounded by South 222nd, South 223rd and 19th Avenue South, noting the surrounding area is primarily vacant and zoned for single family residential. He further noted that Barnes Creek flows from the east to the west side of the property. He called Council's attention to Comprehensive Plan Policy 4-03-23 which establishes that stream buffers should be of adequate size to protect the stream. He advised this is important as the applicant has requested a reduction in lot width in order to provide a full stream buffer. He continued by noting the following items:

- Comp Plan Policy 2-04-01: Proposal balances environmental goals of stream protection and economic development of the property.
- Entire property is designated single family.
- Based on staff's review of the modified subdivision requirements there is consistency with the Comp Plan.

- There is Compliance with Title 18, design lay-out requirements, public infrastructure requirements and the Environmentally Sensitive Areas Code.
- Subdivision site is SF, and proposal is consistent with policies in Comp Plant.
- Lot average for the proposal is 8,538 which is consistent with requirements.
- Lots 1, 2 and 4 do not meet width requirement, but applicant is requesting modification as a result of the environmental sensitive area of Barnes Creek, pursuant to DMMC 17.20.030, Section 8 of the modified subdivision code.
- Meets Des Moines' Street Standards, with adequate provisions for storm water drainage.
- Applicant will pay the required park-n-lieu fees.
- The entire environmental sensitive areas will be set aside and will be dedicated or deeded to the City.

Land Use Planner I Sullivan informed Council that this request is consistent with all of the requirements for a Modified Subdivision. He concluded by advising the Planning Agency has reviewed the proposal and recommends approval, and staff has concluded that the application is consistent with criteria for a modified subdivision, with the following conditions of approval:

1. Install the required frontage improvements adjacent to tax parcel 0576000640 at the corner of 19th & South 223rd.
2. Park-in-lieu fees in the amount of \$24,640.000.
3. Record a restrictive covenant establishing setbacks for Lots 3 and 5.
4. Deed the surface water retention tract to the City.
5. Type 2 catch basin required as part of building permit #B2005-0559 be complete prior to Council review of final plat.

Development Services Manager Ruth added that the real challenge for this design was due to the stream corridor and providing for proper access. He noted the design presented tonight is the best of several that had been proposed but rejected by staff.

Mayor Pro Tem Thomasson called for proponents three times, with no response. He then called for opponents three times and as there was no response, he declared the Public Comment period closed.

Upon questioning, Development Services Manager Ruth advised that the City's proposed detention facility is to be constructed approximately 200-300 feet downstream and there should be no impacts or conflicts created by this subdivision.

Council agenda packet item was entered into the record as Exhibit #1, and supplemental packet information requested by Mayor Pro Tem Thomasson was entered into the record as Exhibit #2.

Mayor Pro Tem Thomasson questioned why the catch basin on South 223rd Street discharges public water and discharges directly into a drainage ditch and then into the Creek. He questioned what in the drainage regulations requires what water must go through the drainage pond, versus what water is allowed to bypass the pond. Land Use Planner I Sullivan responded he was not sure, but SWM Engineer Reinhold had not brought this forward as something that needed to be addressed.

Development Services Manager Ruth stated that the pond design is for the development itself and any existing flows that are coming in are typically not run through the pond, unless specific provisions are made in the pond to handle the frequency of storm events that would typically

occur. He noted there would have to be a benefit analysis as to whether the City would want the water to run through this smaller pond and perhaps overtax the pond.

Mayor Pro Tem Thomasson commented that what is shown on the plans seems to be less drainage and utility systems than he would normally expect or require. He requested more information to ensure adequate systems are available.

Land Use Planner I Sullivan noted that the catch basins on South 223rd already drain into the creek. He advised the full drainage will be reviewed under the Civil Plan review which is the 2nd part of the subdivision process.

Upon questioning regarding sidewalks, Project Manager Romano advised that based on the street classification the proposed sidewalks meet appropriate standards. Land Use Planner I Sullivan advised that complete review of the sidewalk will also be done under the Civil Plan review.

Mayor Pro Tem Thomasson commented that Council is required to make findings about adequate transportation, utilities, etc. and he does not feel he has adequate information or time to make that decision tonight. He would prefer to continue the hearing to July 13th.

Councilmember Pina remarked that Des Moines' has a bad reputation for delaying projects and he feels Council is part of that problem. He would prefer not to wait until the middle of July.

Councilmember Sherman advised that another month is not that long as many issues have been brought-up and he needs more assurances that the project meets all City standards. He would like more information from Administration regarding assurances made in the past along S 222nd and 223rd regarding right-of-way, and what is the nature of those assurances.

Councilmember Kaplan noted that over a period of time, the City does change standards based on different circumstances. He felt it would make sense to find out what occurred in the past and whether the City is applying consistent standards.

Land Use Planner I Sullivan pointed out that Council could make it a condition of approval that when we do the Civil Plan review that the issues regarding right-of-way be looked at including the historical layout of the street neighborhood system, and that the applicant will match that layout.

Mayor Pro Tem Thomasson advised that it hard for him to sit as a judge and reach findings when he does not have the information and analysis of studies that staff has done that would provide the evidence he needs to reach a conclusion. He noted that past sub-divisions have been required to install planter strips and street trees, while this one does not. He stated he would prefer to continue the hearing to get the information that the Code seems to suggest Council needs to reach a final decision. He noted that the applicant will start building based on the guidelines and conditions Council establishes now, and if something is left out, it will be too late by the time the final subdivision comes before Council.

Councilmember Scott noted that the Plat itself did not raise any red flags, but would prefer a way to have the sidewalk issue as a separate issue. She noted that S 223rd from about 9th or 10th is a 40 foot wide road and only becomes wider further east. She advised she does not want staff to make decisions about sidewalks just because a certain width of right-of-way is there without

making sure what it will do to the properties if the same standard is carried out wherever that particular width exists. She felt that sidewalks need to be tied to need and logic.

Councilmember Sherman questioned in regards to lot 5, whether the drainage to the stream is an open drainage ditch or a pipe. He stated that he has questions and would prefer to delay a final decision to a date certain.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Sherman, to continue the Hearing to July 6, 2006. Motion passed unanimously.

Mayor Pro Tem Thomasson requested Councilmembers get questions to staff as early as possible.

10:13 p.m. Councilmember Kaplan left the Council meeting.

NEW BUSINESS

Critical Areas Regulations Update

Land Use Planner II Lathrop proceeded to review the work program and schedule for completing the critical area regulations noting the following:

- June 2006
 - June 22nd State Agency Presentation to Council.
 - June 26th State Agency Open House & presentation to Planning Agency
 - Planning Agency & Environment Committee begin review & discussion of Wetland & Stream categorization, buffers and mitigation.
- July 2006
 - *Critical Areas Inventory*: Staff briefing to Planning Agency & Environment Committee.
 - *Wetland & Stream Categorization*: Planning Agency discussion & recommendation to Environment Committee. Environment Committee discussion & recommendation to Council. Staff briefing to Council.
 - *Wetland & Stream Buffers/Mitigation*: Discussion at Planning Agency & Environment Committee meetings.
- August 2006
 - *Wetland & Stream Buffer/Mitigation*: Planning Agency discussion & recommendation to Environment Committee. Environment Committee discussion & recommendation to Council.
 - *Geologic Hazardous Areas & Critical Aquifer Recharge Areas* Discussion at Planning Agency & Environment Committee Meetings.
- September 2006
 - *Wetland & Stream Buffers/Mitigation*: Staff briefing to Council.
 - *Geologic Hazardous Areas and CARAs*: Planning Agency discussion & recommendation to Environment Committee. Environment Committee discussion & recommendation to Council.
 - *Staff prepares Draft Ordinance*

- October 2006
 - *Geologic Hazardous Areas & CARAs*: Staff briefing to Council.
 - *Staff briefing to Planning Agency on Draft Ordinance*
 - *Council Meetings*: Study session on draft ordinance. 1st Reading of draft ordinance. Public Hearing on draft ordinance.
- November-December 2006
 - State Agency review (60 days) of proposed amendments to Des Moines Critical Area Ordinance.
- January 2007
 - Staff briefing on State Agency Review & comments.
 - Council final reading/adoption of amendments to critical areas ordinance.

NEXT MEETING DATE

Mayor Pro The Thomasson noted the next regular meeting will be June 22, 2006.

ADJOURNMENT

At 10:26 p.m., **MOTION** was made by Councilmember Sherman, seconded by Councilmember Pina and passed unanimously, to adjourn.

Respectfully submitted,

Denis Staab
City Clerk