REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES June 9, 2005

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 was led by Councilmember Steenrod.

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Richard Benjamin (arrived at 9:10 p.m.), Gary Petersen, Dan Sherman, Maggie Steenrod and Susan White. Also in attendance were City Manager Tony Piasecki, City Attorney Linda Marousek, Assistant City Attorney Richard Brown, Community Development Director Judith Kilgore, Finance Director Paula Henderson, Harbormaster Joe Dusenbury and City Clerk Denis Staab.

COMMENTS FROM THE PUBLIC

Bob Pond, 23116 30th Avenue South

Mr. Pond addressed Council referencing Ordinance 1351, regarding Rental of Real Property and Crime Free Registration Fees. He felt it should be called "the renters double taxation and anti-growth in our nation of landlords". He noted that even though the fees are paid by the landlord it will be the renter who will actually be paying. He stated until now, police services have been paid equally by everyone, and this ordinance makes landlords and renters second class citizens that are being taxed twice. He noted that Police staff have told him that 58 people have been trained in the mandatory eight hour class since last November, and that this is renewable every three years. He suggested an alternative pay of $30.00 for the license and $100 for the class, opposed to the current $150.00 license fee and $100 per apartment unit, and renewable every five years. He advised that tenants can ask for safety inspections so there is no need for "blanket inspections".

Florence McMullin, Huntington Park, member of Des Moines Human Services Advisory Board

Ms. McMullin informed Council that she recently toured the King County Sexual Assault Resource Center. She advised Council that from January 1, 2005 to March 31, 2005, the following figures apply for children and adults who have been treated from the City of Des Moines:

- One child crisis intervention
- 12 children used Child Advocacy
- 2 adults received General Advocacy
- Total of 56 children and adults from Des Moines took advantage of services.

She advised that the Center is expanding parent education. She noted that the Center is very client oriented and was established in 1976.

BOARD & COMMITTEE REPORTS

Bus Shelter Art Project

Councilmember Steenrod advised that at the June 16th Council meeting, that principals, some of the teachers and students that participated in the school bus shelter mural project will be in attendance to receive certificates for all their efforts. She suggested that everyone should look at the art being installed at the bus shelters along Pacific Highway South.

Ending Homelessness

Councilmember Steenrod informed Council that King County is undertaking a huge push to eradicate homelessness in King County. She advised that they have created a new governing board for the Committee to End Homelessness and that Suburban Cities Association will have two seats. She stated that if it is the will of Council to nominate her, she would like to serve on this Board. She called attention to her work with the St. Paul Society and that she has been an advocate for people in general, and those that are homeless in particular. She further noted that with the City's budget problems, she will not ask for any formal staff support, it will be strictly her time.

MOTION was made by Councilmember White, seconded by Councilmember Petersen, to support Councilmember Steenrod's efforts, through Suburban Cities, to serve on the Committee to End Homelessness. Motion passed unanimously 6 to 0.

Suburban Cities Association

Councilmember Sherman reported attending a meeting last night along with Councilmember White and Police Chief Baker. He advised that speaker Rod McKeena discussed the three main issues that he will be focusing on during his term of office as follows:

- Hanford issues
- Identity Theft reduction
- Reducing "meth" labs and use

Councilmember White requested that sometime in the future that Chief Baker give Council a report on some of these issues in Des Moines.

Economic Development Strategies

Councilmember White reported there will a meeting with the consultants tomorrow, and at the Council retreat on Saturday some of the issues will be discussed at length.

South County Network

Councilmember White noted that the group is meeting to also discuss the homelessness issue, along with issues along Pacific Highway South. She encouraged everyone to help and for anyone interested to attend the next meeting.

PRESIDING OFFICER'S REPORT

Rental Housing Program

Mayor Sheckler requested Chief Baker give Council an update on the Rental of Real Property/Crime Free program in the City.

Chief Banker informed Council that the Program, so far, is proving to be quite beneficial. He advised Council that the vast majority, if not all, of owners or managers of apartments who have taken the classes have found some information through the program that they did not know. He stated that the classes are intended to give them information that they can use to manage their properties better. He noted he is seeing changes in the City and that most if not all the graffiti has disappeared, properties are being cleaned up and maintained much better, feedback from property owners indicate they are pleased with progress on some of the major problems. He informed Council that a new owner has taken over a large apartment complex and that have expressed pleasure and surprise in how much help the police department has given in helping them to turn that property around and making it safer. He advised everyone that he is talking about quality of life issues when talking about rental housing in the City. He noted that the Police Department is helping them and providing services to help keep them safe and to make life in the City of Des Moines better. He concluded by stating that he strongly believes we are moving in the right direction.

COUNCILMEMBER COMMENTS

Puget Sound Regional Council

Councilmember White noted that the City has not been a member of the Council for a number of years. She feels that it is very beneficial for the City to be a member of a number of organizations. She requested that Administration put together some information, advantages and benefits, for Council's review to consider becoming members once again.

ADMINISTRATION REPORTS

Planning, Building and Public Works Director

City Manager Piasecki announced that the first Planning, Building and Public Works Director is Grant Fredricks. He advised that Mr. Fredricks will bring a wealth of experience and education to the position and will begin work on July 1st.

Celebration of the Des Moines Creek Basin

City Manager Piasecki reported there will be a celebration on Thursday, June 16th on all the projects currently underway and will be doing over the next few years. He advised the event will be held at the Des Moines Beach Park beginning at 11:30 a.m. He noted that along with Mayor Sheckler, numerous neighboring cities, entities, King County and Washington State officials will be making presentations.

Olympic School Remodel - Highline School District

In regards to concerns expressed by Mayor Pro Tem Thomasson regarding parking and traffic problems, City Manager Piasecki stated he had a meeting last week with the Project Director for the school remodel. He advised that he made it clear that the City's expectation is that there will be a very well put together parking and traffic mitigation plan. He noted that earlier this week he received a good core of a plan that with a little bit more work, will most likely work just fine. He further advised that he will be meeting with City staff Monday morning to go over the plan in depth for any other issues or concerns and any proposed modifications. He concluded by noting he and staff will be meeting with the School District and their consultants to finalize the City's issues and get them working on a final plan that will be ready to go as of July 1st. This should allow the School District a couple of months to get information out to the neighborhoods, students, parents and staff to let them know how everything will work. He concluded by stating that the School District will be paying for the mitigation efforts that they will be required to put in place to manage parking and traffic in the area for the two years that Olympic will serve as Mt. Rainier High School.

Mayor Pro Tem Thomasson advised that the City's Code allows for traffic tickets where proper signage has been installed. However, he noted that he has researched the Code to see who has the authority to install traffic signs and the Code appears to be silent. He requested the City Manager research this topic to make sure the Police are ticketing within legal rights.

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the special and regular minutes of May 26, 2005.
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 #99428 through #99605 & electronic fund transfers in the total amount of $1,409,660.29

   Payroll fund transfers in the total amount of $387,747.14
3. Motion is to approve the surplusing of various equipment as described on the submitted memorandum and authorize the disposal of by auction, sale, or transfer to other departments or agencies.

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

CONTINUED PUBLIC HEARING

Port of Seattle First Development Agreement

Mayor Sheckler introduced the topic and noted that the subject was at the point where Councilmembers were asking questions.

In regards to Foreign Trade Zones, Community Development Director Kilgore informed Council that it is only for the merchandise/goods that goes through the building. It is not for the building, or the employees. The City would still receive benefits from leasehold taxes, utility taxes, etc. What is not paid, is called a Federal Duty Tax.

Councilmember Sherman stated that he would like to see retailing expanded, so that it is not just for the benefit of people who might be working in the business park area. He felt that there are retail businesses that could be very lucrative to the City, as well as the Port, in terms of sales taxes.

Community Development Director Kilgore advised that upon review of the Comprehensive Plan, the intent of the North Central Neighborhood Element was that the large retail uses would be located in the area now designated PRC2, and that the North sub-area (the area under discussion) would be more business park uses. She noted this intent is mirrored in DMMC 18.25. It was agreed that an amendment would have to made to the Comp Plan to allow more retail.

A new map and legal description (Exhibit 1) was distributed to Councilmembers, consisting of 89 acres more or less.

Mayor Pro Tem Thomasson questioned page 11 (5) conflict resolution, whether this only governs this agreement or all future agreements. City Attorney Marousek advised that this applies only to this first development agreement.

On page 10, (6), Mayor Pro Tem Thomasson questioned whether the authority of the SEPA Official is subject to arbitration. Community Development Director Kilgore advised that any appeals would come to Des Moines. She noted that if two co-leads cannot agree, then Ecology will settle it.

In regards to page 8, (4), Mayor Pro Tem Thomasson stated that he is struggling with the concept that Permits that have been granted shall control. It seems to him that this is a waiver of the City's Sensitive Area Code. He also noted that most of this area was previously disturbed and wetlands may even have been created from demolishing former homes. He noted it seems that some of this is pre-judging instead of Council actually making sure the Code is being followed.

City Attorney Marousek advised that the City has not waived or pre-judged. She noted that the paragraph is intended to set forth the parameters, the various elements of law, that might apply and to recognize the conflicts in advance, and to make very general legal statements about what the jurisdictional authorities are. The City has certain jurisdictional authority. The State and Federal law apply. The City will regulate under its code, in the event that science shows there is a wetland, it will make the SEPA decisions as the lead agency. In the event that there is an existing permit (such as the 404), the City has not waived its right to dispute or appeal any change. If the Federal government grants a permit, and we don't follow-up, Federal law will pre-empt State and City codes.

Community Development Director Kilgore stated that in regards to the 404 permit for the borrow site, the City does not know what modifications that the Corps of Engineers or the Dept. of Ecology may have on the wetlands, if they decide to modify the permit. She advised that the City is trying to say that our Code governs, but we do understand that there can be higher authorities. She noted that if we don't like what happens, we can appeal.

City Attorney Marousek felt that (4) on page 8, second sentence, is a very strong statement of Des Moines' authority.

Community Development Director Kilgore reminded Council that there will be a second development agreement, and if something happens that Council does not like to the wetlands, then Council can choose not to accept the second development agreement. She advised that the second agreement will be even more detailed than this one.

Port of Seattle Representative Diane Summerhays noted that the last sentence in (4) on page 8, gives assurance that if there are some real conflicts over the sensitive areas, that there is a way to work that out with a dispute resolution process. She advised that the process will allow the City to review the progress and this method creates a lot of room to work together and solve any conflicts.

Councilmember Sherman questioned whether after hearing more details for a Foreign Trade Zone business and the Council determined it would not be beneficial to the City, could the Council deny that use. Community Development Director Kilgore responded in the negative because the Foreign Trade Zone is a permitted use. She reminded Council that this is not a use, but a designation.

City Attorney Marousek noted that Council can only say no based upon a number of reasons within the Council's jurisdiction and authority, such as size or traffic impacts, but not just because you don't like Foreign Trade Zones.

Mayor Pro Tem Thomasson suggested that inserting the language "operation of a Foreign Trade Zone limited to the uses stated in 1 through 7 above" . . . would meet everyone's needs.

At this point Mayor Sheckler closed the public hearing.

MOTION was made by Councilmember Steenrod, seconded by Councilmember White, to adopt the first development agreement between the City of Des Moines and the Port of Seattle regarding the development of the Des Moines Creek Business Park incorporating changes as directed by City Council.

Council consensus was to add to Exhibit 2, last sentence: "operation of a Foreign Trade Zones limited to the uses stated in 1 through 7 above".

Page 7, Step 2. (2), second sentence, Mayor Pro Tem Thomasson questioned the term "may rely" and in the first sentence requested "open space areas" should be added to impacts of development.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Sherman, that "general open space areas" be added to the list in the first sentence on page 7, Step 2(2). Motion passed unanimously.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Steenrod, that on page 7, Step 2 (2), second sentence that the words "rely upon" be struck and the word "utilize" be inserted. Motion passed unanimously 6 to 0.

Page 9, Step 4, Mayor Pro Tem Thomasson requested that the term between the City and the "developer" be corrected.

Councilmember Sherman questioned whether Council really wants to prevent large retailers.

City Attorney Marousek noted that nothing in this agreement would prevent anyone from petitioning to amend the Comprehensive Plan.

Community Development Kilgore advised that Council cannot insert large retailers as it would not be consistent with applicable development regulations that already exists.

MOTION was made by Councilmember Sherman, seconded by Mayor Pro Tem Thomasson to bring back an amendment to include "big box retailers" with appropriate SIC code, subject to inclusion in a future Comprehensive Plan amendment. Motion passed unanimously 6 - 0.

VOTE ON MAIN MOTION: Motion passed unanimously 6 to 0.

At 9:08 p.m. Mayor Sheckler announced that Council will take a 10 minute break and then go into an Executive Session.

City Attorney Marousek announced that Council will enter into an Executive Session at 9:20 p.m. for approximately 10 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.

Executive Session

Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Richard Benjamin, Gary Petersen, Dan Sherman, Maggie Steenrod and Susan White. Also in attendance were City Manager Tony Piasecki, City Attorney Linda Marousek and Assistant City Attorney Richard Brown.

No formal action was taken.

Adjournment: The Executive Session adjourned at 9:30 p.m.

9:35 p.m. the regular meeting resumed with Councilmember Benjamin in attendance.

PUBLIC HEARING

Assignment of Breakers Restaurant Lease

Mayor Sheckler introduced the subject and read the Council Rules of Procedure for conducting the Public Hearing.

City Attorney Marousek administered an oath affirming the truth of their testimony to the following individuals:

Jim Reed, Norma Milluzzo and Linda Reed

Mayor Sheckler requested Administration describe the matter before Council.

Harbormaster Joe Dusenbury informed Council that the original lease agreement was entered into between the City and David and Gail Porter in May of 1988. The lease required Mr. Porter to build a building that he would operate as a restaurant with the building becoming the property of the City at the end of the lease. He noted that in 1996, the Porter's sold the business to Jim and Linda Reed and Joyce Balcom (dba RB&B, Inc.). At that time Council approved the assignment of the lease to RB&B, Inc. He advised that the current lease expires in 2011. He advised that at this time the Reed's and Ms. Balcom would like to sell the business to Salvatore and Norma Milluzzo and they are requesting that Council approve the assignment of the remainder of the lease to the Milluzzo. He noted that this sale is different than the one in 1996 because:

1. There is a much shorter time period left on the lease and,
2. The Marina Comprehensive Master Plan completed in 2001 and is currently being updated, recognizes that there are difficulties with the current site of the restaurant and recommends that at the appropriate time, the restaurant site be moved to a new location north of the Marina office.

Assistant City Attorney Brown identified the following areas of concern:

1. There has been no background or credit check on the proposed assignees. Good business practices would require that this be written into the agreement.
2. Promissory Notes - The time periods for payment of the notes by the Milluzzos imply that the Buyers/Lessees will be entitled to operate the restaurant beyond the end of the lease term in November 2001. The payments on the second note do not even begin until the end of the lease term and are payable through 2017. He felt the Milluzzos should be made aware will be making payments even though the business may no longer exist. Also RB&B's consent must be made to any change in the lease until November 1, 2017, six years beyond the end of the lease term.
3. Recitals, representations & Warranties. These are not accurate and do not properly disclose what the purchaser is buying. Examples:
- "Seller is owner of all the assets of the business" is not true. Seller does not own the land and there is a diminishing ownership interest in the building.
- "There is no pending or threatened litigation" is not true. Seller has filed a claim against the City and threatens to proceed if City does not consent to this assignment.
- The representation/warranty/covenant in paragraph 5.1(b) is not true. Seller does not own the land and has a diminishing ownership interest in the building.
- Proposed Exhibit "D" is misleading and inaccurate. Seller does not own the land and has a diminishing ownership interest in the building.

4. Security Instruments. Proposed Exhibit E is a Deed of Trust for securing payment by an interest in real property. Seller has never owned the real property and has only a terminable leasehold interest to convey to the Milluzzos. Likewise, Milluzzos will not have any fee interest in the real property and, therefore, the proposed Exhibit E is inappropriate.
5. Closing date. A closing day on May 23, 2005 is totally unrealistic.
6. Disclosure. It is incumbent upon the City to assure that the proposed assignee is fully aware of all the facts and conditions of the current lease as well as the possible long range plans by the city for future development of the Marina. Without such disclosure and assurance of the lessee's full understanding of the legal status of the lease and City's possible future plans, will expose the City to possible future litigation.

City Attorney Marousek noted the three main concerns from the legal department are 1) The fact that the Reed's retain control of the ability to reassign the lease. She strongly recommends that the provision not be any document the Council may eventually approve. 2) Promissory notes go beyond the end of the City's current lease. This could possibly leave the City open to a claim. 3) Current document appears to give a security interest in the City's property. These has been somewhat remedied by giving a security interest in the personal property and in the lease. She noted that there are two other changes made in the document that was just received tonight, and legal staff has not had time to review.

Mayor Sheckler called for speakers who have been administered an oath.

Jim Reed, 259 S 171st, Burien
Mr. Reed addressed the City Attorney's three concerns as follows:

1. Retaining Control of the Lease - This is the way the original lease was done when he took it over, and is normal in a commercial lease while there is payment being made.

This allows him to be able to make sure any new owner is capable of running the restaurant as he does not want it back.
2. Promissory Note - Could have made payments due before end of lease term, but that would have placed a hardship on the Milluzzos. Right now they only pay $150.00 a month.
3. Security Agreement - The only security (as shown in new amendments) is regular chattel mortgage, fixtures, etc. It is not the building. This is set up to ensure the Milluzzos succeed, not fail in business.

Mr. Reed noted that the lease does state the lease ends in 2011 at the option of the City. He also stated that if the City moves the site of the restaurant, they will be given a first right of refusal. He noted that the City is not giving up any security and he does not see the City getting sued after 2011. He noted that if the Milluzzos quit making payments after 2011, the only thing he would get back is the improvements, chattels and fixtures. He advised that the Milluzzos daughter has been working at the restaurant for over a year. He also noted they have great new ideas and will serve breakfast every day. He requested Council move forward on approval so the Milluzzos can have the important summer business trade.

Norma Milluzzo, 3509 55th Avenue NE, Tacoma
Ms. Milluzzo, also speaking for her husband, stated that taking over the restaurant is something they have wanted to do for years, and Mr. Reed has made it easy for them to do and make it a success. She advised that they expect to have a full menu from breakfast through dinner, closing at 8 p.m. She noted that they have contractors ready to start tomorrow, but they cannot do anything without Council's approval. She stated that they are open to a background check and would furnish a credit report to the sellers. She informed Council that they are aware that the lease terminates in 2011, but also are aware that they can negotiate with the City to continue on with the lease.

Linda Reed, 259 South 171st Street
Ms. Reed strongly encouraged Council to consider the amended proposal. She stated that they have made full disclosure to the buyers. She strongly requested disposition of this matter.

Mayor Sheckler called for any additional speakers three times, as there was no response, he questioned administration as to whether there were any misstatements of fact, or if there is any additional material, or if they wish to alter any of the initial recommendations.

City Attorney Marousek noted for the record, that two additional items have been provided to Council during the break: Attachment 5, consisting of letters written by her office to Mr. Warren, and a document prepared by Mr. Reed, dated June 9, 2005. She noted that staff has not had an opportunity to review Mr. Reed's packet in detail. The only two differences she has been able to note are:
1. The promissory note that previously gave security in the City's real estate, now only gives a security interest in the property of the restaurant, and in the lease with the City. She also noted that the promissory note still goes to 2017, beyond the term of the lease.
2. The document still allows RB&B to control any subsequent assignment of the lease. She noted that, in her opinion, this should be a decision for the City Council.

Mayor Sheckler acknowledged that Councilmembers and legal staff has not had an opportunity to review the two new documents that were distributed this evening. He questioned how Council wished to proceed.

Councilmember Sherman felt that staff needs time to review the submittal from Mr. Reed. He also felt Council should ask questions of staff so, that hopefully, this can be resolved at the next Council meeting.

Councilmember Steenrod expressed concern that we are almost in the middle of June, and these people tried to effect the sale at the beginning of May. She felt that if this does not go through in a relatively short amount of time, Council is dooming them to failure. She questioned whether this could be handled at Council's planned retreat this Saturday.

Councilmember White, while understanding the importance of time, noted this information was just received tonight. She felt that the Reed's may have been presumptuous in not getting the material to Council sooner. She questioned whether this is a very good business deal for the Milluzzos.

Mayor Sheckler stated that this first came up a couple of weeks ago and it was stated that time was of this essence, so he set the hearing for tonight. However, now there is new information being presented, therefore he is reluctant to proceed.

Councilmember Benjamin stated that the Reeds are doing an owner financed deal, therefore he questioned what other methods could be perceived besides control of the lease in order to protect their interests. He noted there must be some security in order for the deal to occur.

City Attorney Marousek felt that it is not appropriate for the Attorney's office to interfere in this business deal, therefore would not make any suggestions.

Councilmember Benjamin stated that it appears clear to him that the Milluzzos are aware that the lease may cease to exist after 2011.

City Attorney Marousek noted that Ms. Milluzzo indicated this evening that she is hopeful that the restaurant will continue after 2001, and hopeful that the rent will stay at such a low amount. She felt that the rent is way below the market rate and that this Council would want to get the most out of its property.

Ms. Milluzzo informed Council that it is her understanding that in 2011 when the lease terminates, that they will be able to renegotiate with the Council.

Mayor Pro Tem Thomasson advised Ms. Milluzzo that it may well be Council's intent to tear the existing building down in 2011, so there would be nothing to negotiate.

Ms. Milluzzo advised that after talking with the Reeds, that if the building is torn down, then the lease agreement between them would be terminated.

Mayor Pro Tem Thomasson stated that he would have to see Ms. Milluzzo's statement written into the agreement before he could consider approving this deal.

Ms. Milluzzo stated that they are hopeful after the restaurant is proven to be successful, that in 2011 Council would be willing to renegotiate the agreement.

City Attorney Marousek stated that she would want to see the agreement contain language that if the building is torn down in 2011, that the Reeds will terminate the lease. She noted the remaining issue is who has control of this problem.

10:20 p.m. **MOTION** was made by Councilmember Steenrod, seconded by Mayor Pro Tem Thomasson to extend the meeting 10 minutes beyond 10:30 p.m. Motion passed unanimously.

Councilmember Steenrod commented that she felt the parties are aware of the City's concerns and are trying to address them. She felt that the Reeds wish to retain control over the lease should anything happen with the Milluzzos they will make good on the payments to the City. She noted while the business between the Reeds and Milluzzos is not the Council's business, but staff is simply trying to make sure that the details and clarity in the transaction are such that there is no undue expectation that the lease will be renewed automatically. She felt language needs to be included in the agreement that there is no guarantee that the lease will be renewed, and there is no guarantee that the building may continue to exist. She reminded Council that should they deny the assignment of the lease, there better be good reasons and it should be done in a timely fashion.

Mr. Reed informed Council that he is a licensed realtor, but he is not representing the Milluzzos. He also noted that that should they discontinue payment, then he would retain the chattel. He also noted that should they continue with the lease, and the City decides to build a new restaurant then the Milluzzos would have first right option to run that restaurant.

City Attorney Marousek advised Mr. Reed that is a misstatement of fact, as they would have no such right as an option under any documents.

Councilmember White advised Mr. Reed that he needs to disclose to the Milluzzos that there is a higher and better use for the existing restaurant property.

Mr. Reed noted that it is improper for Councilmember White to make determinations on a contract or what is the highest and best use for land, as she is not qualified to make such decisions, nor is he.

Upon questioning, Assistant City Attorney Brown stated that Mr. Porter does still have an underlying interest in the Lease, however it is his understanding that the Reeds have always been current on their payments.

Mayor Pro Tem Thomasson noted that since the Porter's would get the lease back if the Reeds defaulted, he would need reassurance that there is no issue involved here. He noted the term "buyer beware" and stated he does not feel it is Council's responsibility to determine if this is a good business decision. However, he noted Council does have a duty to protect the City's assets and interests. He advised at this point he is not sure the new information addresses all the issues. He would like language added that states that the Assignee has no interests or right of first refusal, no interest in the property, the property shall not be used for security, reaffirm that the City owns the building on November 1, 2011, and any building improvements made between now and the end of the lease are subject to being owned by the City.

Councilmember Sherman voiced concurrence with Mayor Pro Tem Thomasson's comments. He also felt that a background check needs to be done since they will be operating on City property.

MOTION was made by Councilmember Steenrod, seconded by Councilmember Sherman, to continue the Public Hearing to June 16, 2005. Motion passed 6 to 1 with Councilmember Benjamin opposed.

REMAINING AGENDA ITEMS

1. Draft Resolution No. 04-234A - Extend Completion Date for Comprehensive Plan Revisions

2. 2004 Year End and 1st Quarter 2005 Financial Report

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Sherman, to authorize the Mayor to reschedule the two remaining agenda items to a date to be determined. Motion passed unanimously.

NEXT MEETING DATE

- Saturday, Retreat June 11, 2005 at Activity Center 9 a.m.
- Regular Meeting June 16, 2005

ADJOURNMENT

10:39 p.m. **MOTION** was made by Mayor Pro Tem Thomasson, seconded by Councilmember Petersen and passed unanimously, to adjourn.

Respectfully submitted,

Denis Staab
City Clerk

ACTION ITEMS FROM MEETING

- Provide information, advantages and benefits, for Council's review to consider becoming members of Puget Sound Regional Council.

- Research the topic of traffic signs and ticketing (parking and traffic concerns with Olympic being utilized as Mt. Rainier High School).