

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

June 24, 2004

The regular meeting of Des Moines City Council was called to order by Mayor Sheckler at 7:32 p.m. in the Council Chambers, 21630 11th Avenue South, #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 in attendance were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, Public Works Director Tim Heydon, Assistant City Engineer Maiya Andrews, Assistant City Attorney Richard Brown, Community Development Director Judith Kilgore, Land Use Planner II Celeste Carlson, Harbormaster Joe Dusenbury and City Clerk Denis Staab.

COMMENTS FROM THE PUBLIC

Walt Heft, 437 South 206th Street

Mr. Heft read a rebuttal statement regarding dinghy storage at the Des Moines Marina in response to a written memo he received from the Harbormaster. He objected to the term “overhead” as it relates to the storage of dinghies as they are actually located “over water”. He noted that a dinghy stored on the swim step blocks entry and exit from a boat and is more than an inconvenience as it is restricting tenants from using their boats or equipment. He further highlighted the fact that the Fire Chief has told the Harbormaster that over water storage of the dinghies is not a fire code violation and presents no danger of falling on firefighters. In conclusion, Mr. Heft requested Council’s help in resolving this matter of dinghy storage.

Jerry Harris, 24107 20th Avenue South (Fire District Commissioner)

Mr. Harris reminded Councilmembers that the 4th of July is fast approaching. He stated that this has been another dry spring and the Fire District will probably have to hire additional fire fighters. He noted that last year he encouraged Council to consider banning fireworks. He again requested Council to reconsider their stance and ban fireworks.

BOARD & COMMITTEE REPORTS

Initiative to Reduce Utility Occupation Tax from 6% to 4%

Councilmember Benjamin referenced the Initiative Petition he submitted a few weeks back, that the City Attorney ruled that it was not allowed by law and cited two case laws. He noted that he has requested a copy of those cases to use in his rebuttal of this denial and had no response. He further advised that the Attorney’s letter of denial only referenced Referendums and not Initiatives. He stated for the record that he is going forward to pursue the Initiative and will be working on it this week-end rather than attending the Council retreat in Vancouver at the voter’s expense.

Marina Dinghies, Comments from the Public by Walt Heft

Councilmember Benjamin noted that at the last Council meeting he had requested, and was told that there would be, a verbal response that evening by Administration regarding Mr. Heft’s

comments concerning storage of dinghies, as to how to resolve the issue. He advised that he is still waiting for such a verbal response.

Legal Response to Councilmember Benjamin's Comments Regarding Initiative Denial

Mayor Sheckler requested the City Attorney respond to Councilmember Benjamin's comments regarding his Initiative for a reduction in the City's Utility Tax.

City Attorney Marousek advised Councilmember Benjamin that she has not received his request for copies of the cases cited, but if he would send a copy to her office she will supply the information. In regards to the references to legal authority, she noted for the record, that the State Constitution, in reference to Initiative and Referendum, specifically refers to State laws, there is a specific State Statute which is not the State Constitution that limits the powers of local municipalities for Initiative and Referendum and that is a different provision of the State Constitution. She further advised that the Des Moines Municipal Code does refer to ordinances as subject to "Referendum", but case law has widely interpreted "Initiative" and "Referendum" to be subject to the same criteria under State law. Therefore, the response that was sent to Councilmember Benjamin's Initiative referred to the case law that discusses both Initiative and Referendum.

Port of Seattle Information Phone Numbers

Councilmember Steenrod referenced an e-mail requesting attendance at a briefing on third runway construction. She noted that this e-mail contained information telephone numbers available for citizens to call 24 hours to hear new information and leave a recorded message regarding the third runway. She requested these numbers be posted on the City's government information Channel 21.

Council Retreat

Councilmember Steenrod advised that she will be unable to attend the Council retreat set for this week-end. She advised that Economic Development is a high priority and requested since Council has given authority to hire a consultant to review changes needed in the Zoning Code, she requested Council be given a status report on where we are in this process over the week-end. She questioned whether a video tape will be made on the special meetings for citizens to review as well as any Councilmembers that are unable to attend.

Mayor Sheckler noted that historically tapes have not been made during retreats. He noted that major topics of discussion will be the budget and economic development.

City Manager Piasecki noted that the room that will be used is not set up for microphones and recording, but he will see what might be done. He advised that Clerk Angie Chaufy will be taking minutes of the meeting that and these are an open public record of the proceedings. He also offered to have a special meeting with any Councilmembers unable to attend to brief them.

Record Clarification

Councilmember Sherman noted that for the budget year's 2002 and 2003, Councilmember Benjamin was of the majority of Councilmembers that were against big government and in favor of reducing taxes and eliminating utility taxes, but did not. He further stated that he believes that Councilmember Benjamin should attend the retreat to represent those individuals he feels he does as an elected official, and join in discussions on the budget and economic development. He

further pointed out that a retreat was held and attended by the former Mayor, and Councilmembers, who were on record as being against “big government” and retreats.

Fourth of July Fireworks

MOTION was made by Councilmember Sherman, seconded by Councilmember Sheckler, to have Administration prepare draft legislation to ban consumer fireworks.

Councilmember White noted that we are having a drought and there is bound to be problems from usage of fireworks. She felt this is a good time to discuss the issue and she is supportive of the motion.

Councilmember Benjamin stated that Council has addressed this issue almost every year. He acknowledged that fire is a concern, as it is for the Fire Department throughout the year. However, it is the fourth of July and it is now more important than ever to celebrate our nation’s freedom. He noted that he is not in favor of supporting a fireworks ban.

Mayor Pro Tem Thomasson noted that he has opposed a ban on fireworks in the past as the fourth of July is the time when we celebrate our independence in the Country. He advised that he would be willing to consider a referendum or advisory ballot by majority vote of the citizens whether to ban the use of fireworks. He suggested that if the Fire District initiated such an issue he would support it.

Mayor Sheckler pointed out that should Council pass any legislation before July 4, 2004, it would not go into effect until July 4, 2005, and should Council pass legislation after July 4, 2004, it would not be effect until July 4, 2006.

Councilmember Steenrod felt that if Council considers legislation to ban fireworks then it must be scheduled at a regular meeting to allow for public comment on the issue.

Councilmember Petersen felt that misuse of fireworks is occurring more frequently and that a future ban will most likely occur. However, he suggested that Council move slowly on the issue and he would like to see the City have a spectacular community display for the 4th of July and that more citizens would be likely to support banning commercial sales if this were done.

VOTE ON MOTION: Motion failed four to three, with Councilmembers Sherman and White and Mayor Sheckler voting yes.

MOTION was made by Councilmember Sherman, seconded by Councilmember White, to direct staff to prepare the necessary paper work to submit the issue of banning commercial sales of fireworks for a vote of the people.

Councilmember Benjamin noted he could support this if it is placed on a November ballot and offered this as a friendly amendment.

Councilmember Sherman noted that he could not accept this as an amendment because the issue will depend upon when staff can prepare the proper paperwork.

Upon questioning by Councilmember Steenrod, Councilmember Sherman stated he is requesting that the City Council take the initiative to place this to a vote of the citizens as to whether to ban fireworks.

Councilmember Steenrod noted that the City Attorney has blocked efforts to place issues on the ballot for citizens input, such as rolling back the utility tax and requested that these types of measures be treated equally.

Councilmember Thomasson noted that it is important for citizen input, but would rather see staff prepare a report on the various processes where the public could advise Council or create the law that would take away the right to have fireworks.

Councilmember Benjamin stated that he feels it is important to be consistent in methods for hearing what the public wants. He noted that the initiative process is designed to give the people a voice in their government and when it is denied by a filter process, then the citizens have not had their voices heard.

VOTE ON MOTION: Motion failed four to three, with Councilmembers Sherman and White and Mayor Sheckler voting yes.

King County Economic Development Meeting

Councilmember White noted that she and City Manager Piasecki met with Julia Patterson and the County Economic Development people regarding the situation of economic development in Des Moines. She requested Council move forward on this issue.

National Trust for Historic Preservation Leadership Training Conference

Councilmember White reported attending the Conference two weeks ago in Oregon. She noted that efforts to get the Des Moines Beach Park on the National Trust is important for creating tourism, finding other uses and promoting economic development.

Association of Washington Cities Annual Conference

Councilmember White reported attending the AWC Conference with Mayor Sheckler this past week-end at Ocean Shores. She advised the focus was on the effects of the potential impacts from I-864. She stressed how critical the need is for Council to move forward on budget issues.

Agenda Items Not Completed at Last Council Meeting

Upon questioning by Mayor Pro Tem Thomasson, City Attorney Marousek advised that State statute requires that Public Hearings take precedent over Council rules and need to be scheduled at the beginning of the meeting. After the Public Hearings are dealt with then Council rules for the order of business will prevail.

PRESIDING OFFICER'S REPORT

Association of Washington Cities Annual Conference

Mayor Sheckler reported the following items were some of the topics covered at the Conference that he attended this past week-end: Master Downtown Plan by Using Your Resources and the 10 steps to branding your community by finding its uniqueness, future of Municipal Courts, dealing with raising health care costs, emergency management and strategies to deal with Initiative 864.

ADMINISTRATION REPORTS

3rd Runway Construction Meeting

City Manager Piasecki advised he will be attending a Port of Seattle meeting on July 1st regarding the 3rd Runway construction. He advised that any materials that are obtained from that meeting will be distributed to Councilmembers and made available to the public. He advised that the public information telephone numbers will be posted on the City's web site and Channel 21.

New Council/Court Recording System

City Manager Piasecki reported that as a part of the new video Municipal Court arraignment system, a new digital recording on a CD system has been installed which replaces the old cassette tape system.

Harbormaster's Written Response to Mr. Heft - Marina Dinghy Storage Issue

City Manager Piasecki noted that the Harbormaster's written response to Mr. Heft regarding the storage of dinghies at the Marina was distributed to Councilmembers. He suggested Council read the response, which he will make available to any citizen who wants it, and then if Council desires the issue can be placed on a future agenda for discussion.

Preliminary 2005 Budget Hearing

City Manager Piasecki announced that Council will hold a public hearing on the preliminary 2005 City Budget on Thursday, July 8, 2004. He advised that the purpose of the hearing will be to provide an opportunity for public input on how the citizens feel the City should be handling the budget problems which include an approximately \$3 million deficit. He informed Council that a variety of material will be distributed to Councilmembers at the Council retreat this week-end regarding potential budget cuts, including duties and responsibilities of all City departments.

Economic Development

City Manager Piasecki advised that the RFP's for Economic Development are almost complete and will be routed to the Economic Development Committee for comments, with the intention of releasing on Friday, July 2nd.

Development Map

City Manager Piasecki distributed a color coded map detailing construction and development activity within the City. He noted that those sites marked in blue are expected to begin in July. He advised that the Graceview PUD is shown on this map, but makes no presumptions that Council will approve the matter set for a public hearing this evening, but rather depicts the owners intention to begin construction in July if approval is granted.

Marina Dinghy Storage Issue

Harbormaster Dusenbury referenced his memo of June 16, 2004 regarding policy on overhead storage on the covered moorage docks at the Des Moines Marina. He highlighted the following:

- 1994 identified "over-length" boats as significant problem and took over a year to develop a policy regarding management of storage on the docks.
- Some tenants elected to enter a waiting list for a larger slip size. Others elected to modify their boats, which involved removing the dinghy and storing it on finger piers. This created some congestion and Fire Department determined this to be a problem during their annual fire

and life safety inspection. Stored dinghies also created problems for some tenants to access their boats.

- Some tenants devised a way to hang dinghies from the roof structure over their slip. This was not viewed as an ultimate solution. Goal is to get every tenant in the appropriate length slip and to build a dinghy rack storage system for owners who do not want to keep their dinghy on their boat.

In conclusion, Harbormaster Dusenbury added that storing of dinghies by the overhead method raises concerns about the failure of the roof structure, which is not very substantial, due to the additional weight. Also he stressed that staff has offered to store and retrieve dinghies for those tenants who are disabled.

Councilmember Thomasson advised that during winter months snow loads have been a concern for structural failure and staff is seen shoveling the snow off the roofs. He pointed out that the new sprinkler system will be adding additional weight and he has structural concerns with hanging dinghies.

Mayor Sheckler advised that the issue will be reviewed.

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the special and regular minutes of May 27 and June 3, 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 #94657 through #94887 & electronic fund transfers in the total amount of \$616,556.23

Payroll fund transfers in the total amount of \$351,289.89

3. Motion is to authorize the City Manager to sign the amendments to the HOME and CDBG Interlocal agreements as submitted.
4. Motion is to approve the Interlocal Agreement with City of Auburn for jail services and to authorize the City Manager to sign the agreement substantially in the form as submitted.
5. Motion is to purchase 525 square feet of land from Brad and Cynthia Swezea for the 24th Avenue South/South 216th Signal Project, in the amount of \$3,150.00 plus closing costs, and further to authorize the City Manager to sign the Purchase and Sale Agreement substantially in the form as submitted.

Councilmember Sherman noted the following correction to the May 27, 2004 regular minutes, page 3, *SR 509 Executive Committee* report: change \$9,000,000 to "900,000,000".

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

PUBLIC HEARING

Draft Resolution No. 04-108 [ASSIGNED RESOLUTION NO. 975] 6 Year Transportation Plan for the Years 2005-2010

Mayor Sheckler introduced the subject, noting that no one had signed up to speak and inquired whether there was any one in the audience who wished to address Council at the appropriate time. There was no response.

City Attorney Marousek advised the audience that a summary of the rules of procedure for the public hearing are available on the table at the side of the room.

Assistant City Engineer Andrews stated that each year the City, and all cities and counties in Washington, submit a Six-Year Transportation Improvement Plan 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 inter-agency needs and funding requirements. She noted this document is a companion document to the City's Capital Improvement Plan. She reviewed the top 12 priority items as follows:

1. Arterial Maintenance Program
2. Pacific Highway South Redevelopment Project
3. Marine View Drive Bridge Project
4. 216th & 24th Intersection Improvements
5. South 216th Street Pedestrian Signal at Wesley Gardens
6. 16th Avenue South Improvement Phase I
7. Kent-Des Moines Road Improvement Phase 1
8. Neighborhood Traffic Control Program
9. North Twin Bridge Project - Seismic Retrofit
10. South 216th Street Sidewalk Project
11. Des Moines memorial Drive Improvement
12. Saltwater Bridge Repairs

Mayor Sheckler called for comments from the public three times. There was no response and he inquired whether Council had any questions.

Councilmember White remarked that in previous discussion it has been felt that a sidewalk is needed in Redondo between Redondo Beach Drive and Sound View Drive. It was noted that at the appropriate time in the hearing this item should be offered in the form of a motion.

Councilmember Benjamin questioned whether a pedestrian guard rail will be installed for Item #10, South 216th Street Sidewalk Project, at the sharp curve near the automotive shop. Assistant City Engineer Andrews advised that the project is not at such a detail point as of yet.

In response to a question regarding Item #7, Assistant City Engineer Andrews advised that pedestrian facilities are planned for the north side and possibly the south side. Councilmember Benjamin remarked that with the apartments the most heavy traffic is on the south side and is especially dangerous at night.

Upon questioning from Mayor Pro Tem Thomasson, Public Works Director Heydon informed Council that the 6 Year Transportation Plan is a little more ambitious than the CIP, but need to be listed to be grant eligible.

Mayor Sheckler declared the public hearing closed.

MOTION was made by Councilmember Sherman, seconded by Mayor Pro Tem Thomasson, to adopt Draft Resolution No. 04-108 which covers the Six-Year Transportation Program for the City of Des Moines.

MOTION was made by Councilmember White, seconded by Councilmember Benjamin, to amend the Transportation Plan to add a new item (#13) to install curb, gutter and sidewalk on the north side of Redondo Way between Redondo Beach Drive and Sound View Drive.

Upon questioning by Mayor Pro Tem Thomasson, Public Works Director Heydon noted that #19 entitled Sidewalk Program, City Wide, is general sidewalks City wide and would include specific projects such as the one proposed by Councilmember White.

Mayor Pro Tem Thomasson noted he will support the motion so long as it is understood that specific projects do need to be included in the Capital Improvement Plan.

Councilmember Benjamin noted that he will support the amending motion as sidewalks are needed in recreational areas, however he stressed that there are other low income areas in the City that could use sidewalks, as walking may be citizens main mode of transportation.

VOTE ON AMENDING MOTION: Motion passed unanimously.

VOTE ON MAIN MOTION: Motion passed unanimously.

Mayor Sheckler read the draft resolution by title into the record.

At 8:50 p.m. Mayor Sheckler called for a 10 minute break.

PUBLIC HEARING

Draft Resolution No. 04-115 [ASSIGNED RESOLUTION NO. 976] Graceview Preliminary Planned Unit Development at South 234th/Kent-Des Moines Road - 1st Reading

Mayor Sheckler introduced the topic.

Land Use Planner Carlson informed Council that staff has received an application for a proposed 27 lot subdivision/preliminary planned unit development. She advised that the Council is required to review and issue a decision on this application pursuant to Chapter 17.16.130 of Des Moines Municipal Code. With the use of a power point presentation she showed the location at the corner of Kent-Des Moines Road and South 234th Street. She further provided Council with details as supplied in Council's packets highlighting some of the following:

- Site Conditions - 9.8 acres undeveloped land. Western side of site is Massey Creek with forested wetland. Cutthroat and coho salmon have been identified in the Creek.
- Zoning - RS 9600 on parcel east of creek and buffer area is 7.8 acres; creek and buffer area is RM 2400 of approximately 2 acres.
- Taking into account the wetland, stream and buffers, maximum allowed density is 39 dwelling units and developer is proposing a total of 27 dwelling units within an area of 5.8 acres.

She advised Council that the site could potentially contain up to 71 lots based on underlying zoning, however after factoring in the area that is not developable using calculations set in

18.86.090 DMMC, the site has a potential for a 39 lot subdivision. She noted that trying to reach this development potential would result in intrusions into the stream buffer area, therefore the applicant has decided on a planned unit development, which has the following purposes:

- Produce a development which would be as good or better than that resulting from a traditional subdivision;
- To correlate comprehensively the provisions of the Municipal Code, to permit developments which will provide a desirable and stable environment in harmony with the surrounding area;
- To permit flexibility that will encourage a more creative approach in the development of land, and will result in a more efficient, aesthetic, and desirable use of open area, while maintaining substantially the same population density and area coverage permitted in the zone;
- To permit flexibility in design, placement of buildings, use of open spaces, circulation facilities, off-street parking areas, and to best utilize the potentials of sites characterized by special features of geography, topography, size or shape.

Land Use Planner Carlson informed Council that the proposed Graceview PUD meets all the criteria for granting approval of a planned unit development. She noted that although the property is split-zoned, the area proposed for development is zoned RS 9600 and therefore the applicant is requesting five minor variations which are as follows:

1. Minimum lot width of an average of 50 feet to allow for more compact layout of the plan and keeps development out of the stream and its buffer area.
2. Minimum lot size of 5,000 square feet to allow for clustering of the lots on the portion of the site that is not hindered by environmentally sensitive areas.
3. Minimum perimeter yards and is proposing to utilize 10 foot perimeter side yard for lots along South 234th Street which is consistent with surrounding neighborhoods.
4. Maximum block & cul-de-sac length of 570 feet to allow for a more compact subdivision and preserve the stream and buffer area.
5. Frontage improvements: The west property line abuts Kent-Des Moines Road, however there is no legal nexus for requiring street improvements along the state highway. The portion of the project abutting Kent-Des Moines Road will be dedicated to the City as a sensitive area tract. Noting that improving the right-of-way would intrude into Massey Creek.

After detailing other items included in Council packets, Land Use Planner Carlson pointed out that the applicant will pay the City \$35,553 as an in-lieu of park improvements as well as dedication of land. She concluded by advising that staff is recommending approval of the Planned Unit Development Preliminary Plat as it meets all of the detailed criteria.

Mayor Sheckler inquired three times as to whether anyone in the audience wished to address Council on the proposal. As there was no response, he inquired whether Councilmembers had any questions of staff.

Mayor Pro Tem Thomasson noted that the requirements of the City's street code for frontage improvements is not one of the items that a PUD allows a variation on. He requested information on this issue. Land Use Planner Carlson noted her interpretation of DMMC 18.52.100 is, limitations on variations of the Code, and is not saying those are the only items that can be varied.

City Attorney Marousek further responded that this issue has been studied and she agrees with Ms. Carlson's interpretation. She noted that there are two subsections in the PUD code that support the action that staff is recommending. First is the general purpose provision 18.52.010(4), and second, 18.52.100 showing there are lots of standards that can be waived, and ones that cannot be waived, which did not include street standards.

Mayor Pro Tem Thomasson questioned the City's ability to be able to build what may need to be built in the current right-of-way, as it is wider in other areas. He felt the City should request right-of-way dedication and make Tract X a little smaller.

Public Works Director Heydon responded that an additional ten feet along that portion of Kent-Des Moines Road would probably be appropriate. He voiced agreement with Mayor Pro Tem Thomasson for a strong recommendation to require an in lieu fee for proposed improvements for that portion of the road.

Land Use Planner Carlson reiterated her definition of nexus as follows: "That the impacts from the development do not have a direct correlation to the improvements required by our development regulations".

City Attorney Marousek pointed out that the City cannot charge the development for improvements to a road if there is no direct connection, and in this situation there is no connection with frontage improvements to Kent-Des Moines Road.

Mayor Pro Tem Thomasson noted his primary concern is for Kent-Des Moines Road. He noted his other concern deals with yard areas and permitted site coverage. He requested confirmation that the lot areas and set backs are in accordance with the zoning code. Land Use Planner Carlson confirmed that the only lots that will not meet the criteria are lots 1 and 27, but all will meet the underlying zone.

Councilmember White expressed the feeling that this is a nice project and enhances the area.

Upon questioning by Councilmember Steenrod, Public Works Director Heydon noted that the interior street is longer than requirements because of the topography of the development, so there is no other way to provide access.

Councilmember Sherman expressed general agreement with the proposal over-all, but agreed with Mayor Pro Tem Thomasson's concerns over the City limiting itself for future improvements to Kent-Des Moines Road.

Further Council discussion brought out that a certificate of water availability has been issued, funds earmarked as in lieu of park space will be dedicated to parks, and that the Engineer will prepare costs for frontage improvements.

Mayor Sheckler closed the public hearing.

MOTION was made by Councilmember Steenrod, seconded by Councilmember White, to adopt Draft Resolution No. 04-115, approving the proposed Graceview preliminary planned unit development/subdivision and findings of fact.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Sherman, to amend that a 10 foot right-of-way dedication along Kent-Des Moines Road be included so the City can construct street improvements and that the appropriate findings be added to support this requirement. Motion passed unanimously.

MOTION was made by Councilmember Steenrod, seconded by Councilmember Benjamin, to restrict the Park in-lieu fee to be dedicated to improvements to this site.

Mayor Pro Tem Thomasson expressed opposition to this amendment as he would rather see Council prioritize where these funds are spent. Restricting money to this site he felt could jeopardize the sensitive areas within the sites.

Councilmember Benjamin spoke in support in keeping the funds dedicated to the protection of the environmental areas on the site and provides a good opportunity to enhance this neighborhood.

Councilmember Petersen voiced approval of the overall project and felt it is important to provide a play/park area for children that will be living in this development.

VOTE ON AMENDING MOTION: Motion failed four to three with Councilmembers Benjamin, Petersen and Steenrod voting Yes.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Sherman, that Finding of Fact #16 be changed to provide for a street frontage improvement in-lieu fee in the amount of \$20,000 for improvements along Kent-Des Moines Road. Motion failed five to two with Councilmember Sherman and Mayor Pro Tem Thomasson voting yes.

MOTION was made by Councilmember Benjamin that the park in-lieu fee be dedicated to the maintenance and preservation of the wetland contained on site. MOTION DIED for lack of a second.

VOTE ON MAIN MOTION: Motion passed unanimously.

Mayor Sheckler read the draft resolution by title into the record.

OLD BUSINESS

[ED NOTE: 10:13 p.m. Councilmember Benjamin left the Council Chambers.]

Draft Ordinance No. 03-074 - Right-of-Way Permits - 1st Reading

Mayor Sheckler reminded Council that when time expired at the June 10th meeting, a motion was passed to add the word “significant” between the words “a” and “public” on page, number 7(b). He further noted that the following motion is on the table:

“To pass Draft Ordinance No. 03-074 to a second reading for enactment on the next available Consent Calendar.”

VOTE ON MOTION: Motion passed 6 to 0. (Councilmember Benjamin was not present.)

Assistant City Attorney Brown reminded Council that he has made the revisions to the draft ordinance as requested by Council at the last meeting which includes an insurance clause, which is at Council's places.

MOTION was made by Councilmember Sherman, seconded by Mayor Sheckler and passed unanimously, to accept the Assistant City Attorney's revised draft as the item to be used for a second reading.

[10:17 p.m. Councilmember Benjamin returned to the Council Chambers.]

NEW BUSINESS

Agenda Revision

Mayor Sheckler announced that he will take the last item of New Business regarding the Draft Ordinance for a property tax levy lid lift ballot measure, first.

Draft Ordinance No. 04-122 Property Tax Levy Lid Lift Ballot Measure - 1st Reading

Finance Director Henderson advised that as directed by Council, staff has prepared a levy lid lift regular property tax ordinance. She noted that the draft ordinance provides for submission to the qualified voters of the City at the September 14 or November 2, 2004 elections of a ballot measure to raise the regular property tax levy rate for 2005 in the amount of \$1.27 per \$1,000 assessed valuation on the real property within the City. The \$1.27 levy rate equates to the 2004 levy rate of \$1.26758. She requested direction from Council on the election date and the dollar amount.

MOTION was made by Councilmember Sherman, seconded by Councilmember White, to pass draft Ordinance No. 04-122 providing for the submission to the qualified voters of the City of Des Moines at an election to be held on September 14, 2004 or November 2, 2004 of a proposition that would approve a maximum regular property tax levy rate for 2005 of \$1.27 per \$1,000 assess value, or to be determined, in order to maintain current levels of community services such as public safety, transportation, and culture and recreation, and approval would permanently authorize the City to exceed the limits of Chapter 84.55 RCW based on the new voter-approved limit, directing the City Clerk to certify a copy of this ordinance to the King County Records & Elections division, and setting forth the ballot proposition.

Councilmember Sherman advised that he wants the election date and the dollar amount left open until more information becomes available at the July 8th meeting.

Councilmember Benjamin stated that he prefers the November election as there generally is less participation in the September election. He questioned that if the "Eyman Initiative" fails what happens. He stated it was his understanding that if the initiative fails then there is no need to raise property taxes.

Finance Director Henderson responded that during the budget process, Council will have the final say on what the property taxes will be for 2005.

Councilmember Sherman CALLED FOR THE QUESTION.

VOTE ON THE CALL FOR THE QUESTION: Motion passed four to three with Councilmembers Benjamin, Petersen and Steenrod opposed.

VOTE ON THE MAIN MOTION: Motion passed four to three with Councilmembers Benjamin, Petersen and Steenrod opposed.

Councilmember Sherman noted that there are time restrictions and it is important to move forward.

Mayor Pro Tem Thomasson stated that the issue of tax revenues and the appropriateness of this will be part of the Council retreat discussions this week-end.

Remainder of Agenda Items

MOTION was made by Mayor Pro Tem Thomasson, seconded by Mayor Sheckler that the Draft Ordinance No. 03-075 - City Park Use Regulations and the briefing regarding the Phase 1 Expanded Guest Moorage/Bulkhead Replacement Project be placed on an agenda to be determined by the Mayor. Motion passed five to two with Councilmembers Benjamin and Steenrod opposed.

ADJOURNMENT

At 10:28 p.m. **MOTION** was made by Mayor Pro Tem Thomasson, seconded by Councilmember White to adjourn. Motion passed five to two, with Councilmembers Benjamin and Steenrod opposed.

Respectfully submitted,

Denis Staab
City Clerk