

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

July 1, 2004

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

PLEDEGE OF ALLEGIANCE to the Flag was led by Councilmember Steenrod.

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Richard Benjamin (left meeting at 8:40 p.m.), Gary Petersen, Dan Sherman (arrived at 7:48 p.m.), Maggie Steenrod and Susan White. Also present were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, Assistant City Attorney Richard Brown, Chief of Police Roger Baker, Master Sergeant Patti Harris, Police Commander Kevin Tucker, Public Works Director Tim Heydon, Assistant City Engineer Loren Reinhold, Harbormaster Joe Dusenbury, Parks and Recreation Director Patrice Thorell and City Clerk Denis Staab.

DISCUSSION ITEMS

Draft Ordinance No. 02-126 ~~ASSIGNED ORDINANCE NO. 1344~~ Graffiti - 2nd Reading

Police Chief Baker noted that the draft ordinance regarding graffiti has been worked on for the past two years.

Master Sgt. Harris with the use of a power point presentation provided Council with the following information:

- *Who is doing graffiti?* All ages, but usually males 10-20 years of age from all economic, social and ethnic backgrounds.
- *Basic Types of Graffiti.* Gang related: Show territory send messages, praise deceased members & threaten or challenge rival gangs. Tagging: Done for fun, consider it art, doesn't send messages or challenges.
- *Common Marking Methods.* Spray paint, broad tip markers, acid etch, shoe polish & sharp instruments.

Master Sgt. Harris displayed examples of graffiti that can currently be found in Des Moines, explaining the methods used and how to interpret the meaning of various messages. She noted that graffiti can be found in all areas of the City and is now particularly heavy along the alley between Marine View Drive and 7th Avenue South.

Upon questioning by Mayor Sheckler, Master Sgt. Harris noted that a gross misdemeanor for graffiti vandalism is punishable up to 365 days in jail and a fine up to \$5,000. The fine currently is a misdemeanor which is 0 to 90 days in jail and a fine up to \$1,000.

Master Sgt. Harris advised Council that surrounding cities have ordinances in place which requires graffiti clean-up, therefore Des Moines appears to have more graffiti because there is no legislation to require the removal.

Commander Tucker noted that in the past Council had concerns over the costs of clean up and citizens who may not have the funds to do so. He called Council's attention to an agreement with Ace Hardware who will match and sell exterior paint at a significant discount to Des

Moines citizens and businesses when they present a Des Moines Police Department employee business card. He further noted that staff is working with the Community Development Director to apply for and administer Community Development Block Grant Funds to assist qualifying persons in the clean-up of graffiti on their property. Also, the penalty applied to property owners who fail to clean-up has been changed to a civil violation which will only proceed after a reasonable amount of time. He advised that the Municipal Court Judge has options as to the level of penalty. In conclusion, he informed Council that the ordinance will give the police department and municipal court, additional and specific laws and direction when investigating, arresting and charging individuals who place graffiti on structures. He noted the City will be providing an effective long term solution to more effectively address the graffiti issue.

In response to questioning, Commander Tucker advised that he hopes groups such as the Rotary Club and the Chamber of Commerce, as well as other civic groups, will volunteer to help property owners who may be physically unable to clean-up property damaged by graffiti.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember White, to enact Draft Ordinance No. 02-126, an ordinance establishing new graffiti gross misdemeanors, defining criminal misconduct related to graffiti, and establishing criminal penalties for such misconduct and requiring the removal of graffiti in order to protect the public health, safety, and welfare.

Upon questioning by Councilmember Steenrod, Commander Tucker noted that when youth are apprehended the parents will be informed and educated on what items to be looking for. Young offenders can be given community service in the form of graffiti removal. He advised Council that if graffiti is removed promptly those who are doing it will eventually go somewhere else.

Master Sergeant Harris advised Council that the Police Department will have resource materials available and will provide flyers to businesses and residents on why they should clean-up graffiti and what materials to use for clean-up of different types of graffiti.

VOTE ON MOTION: Motion passed unanimously.

Surface Water Management Efficiency Study - Staff Response

Public Works Director Heydon noted that in April, Council was given a briefing of the Study by Financial Solutions Consulting Group and at that time requested a staff response to the draft study before finalizing the efficiency study and proceeding with a SWM rate study.

Assistant City Engineer Reinhold informed Council that the study was looked at by both maintenance and engineering staff. He proceeded to review staff's responses to the consultant observations and recommendations as follows:

- *Consultant:* Range of maintenance levels in work zones. Should: Collect and report data into software, use hydrant meters at varied locations and determine an optional decant facilities for waste.
- *Staff Response:* Purchasing PDAs to manage data (recommend 2 UPS capable and software at a cost of \$15,000.). Several hydrants are now being used. Were unable to locate an optional decant facility.
- *Consultant:* Set target service level. Develop one work order/project form with more specific information.

- *Staff Response:* Purchasing PDAs (as noted) to manage needed data. Work order/project form has been revised and routed for input.
- *Consultant:* Monitor Sweeping contractor - miles swept. In any new contract require contractor to provide miles swept per work zone.
 - *Staff Response:* Current sweeping contract extended by 1 year. Contractor has agreed to tracking miles using vehicle odometer.
- *Consultant:* Hire worker to increase repairs. Improve timekeeping record system.
 - *Staff Response:* Agree additional crewmember needed. May request position in budget, but evaluate in 1 year after new data collection. Staff is evaluating revised timekeeping records.
- *Consultant:* SWM Technician development review fees from City general fund versus ratepayers. Variety of options on to how to recover fees.
 - *Staff Response:* Track development time for 1 year and compare to fees collected. Include this in full rate study proposed in 2006.
- *Consultant:* Budget Impacts - Include in City revenue needs funding for updating Website with SWM bulletins; inspect/enforce private facilities; treatment facilities 2006 and 2007.
 - *Staff Response:* Supports funding Best Management Practices due to NPDES Permit. Recommend defer rate study until permit issued late 2004.

Mayor Pro Tem Thomasson commented that he agrees that the NPDES Permit will change things in regards to SWM funding, but does not agree that it will change that much. He felt that the City should do the rate study now in order to determine how much the rates do need to go up. If rate study is postponed, he felt that the rates may still need to be raised at least 10% now.

City Manager Piasecki felt that since the NPDES Permit is almost ready, the City should at least have the consultant start the rate study by focusing first on Capital improvements. He noted that the rate study can be tweaked once the Permit is issued. In regards to an additional position, he suggested the maintenance position be created during the budget process for 2005, but hold off filling the position until more data is available on how we will manage the maintenance activities.

MOTION was made by Councilmember Steenrod, seconded by Councilmember Petersen, to finalize the draft efficiency study, with the inclusion of staff's responses, and to proceed with the partial utility rate study evaluating the financial needs of the Capital Improvement Program.

Mayor Pro Tem Thomasson spoke in support of doing a full rate study.

City Manager Piasecki noted that staff has recommended that we look at the capital needs and then adjust rates accordingly. He noted that the maintenance side will also be driven by facilities that may be built in the future. He felt that the capital needs study can be finalized by the end of the year. He does not feel there will be many new facilities proposed for next year, but more for three to five years out. Based on that, along with the information from the maintenance activities, the City would be in a better position to look at maintenance costs in about 6 months to a year.

At approximately 8:40 p.m. Councilmember Benjamin left the meeting.

Mayor Pro Tem Thomasson noted that enough analysis has to be done to determine what the rates have to be for next year, which includes labor, maintenance and capital.

City Manager Piasecki felt after the first year staffing issues can be better evaluated and once the capital facilities are actually built, then the data from the maintenance activities will determine whether additional funds are needed.

Public Works Director Heydon noted that he currently does not have enough data to determine how much may be needed to fund positions. He noted that there are new facilities being constructed including those associated with the Pacific Highway South project.

Mayor Pro Tem Thomasson felt Council should consider creating a position in storm water, which may absorb a position cut that Council talked about during budget discussions at the recent retreat. He advised that he is convinced that the SWM position is needed. He noted that if employee layoffs are not necessary, the SWM position does not have to be filled, but at least it will be programmed into the rate study.

VOTE ON MOTION: Motion passed unanimously 6 to 0.

8:58 p.m. Mayor Sheckler called for a 10 minute break.

First Phase of Expanded Guest Moorage and Bulkhead Replacement Project

Harbormaster Dusenbury informed Council that the complete consultant reports and technical memos are available for review. He briefed the Council on the progress of the preliminary design and feasibility study phase of the project, described some of the on-going work and areas where information is needed, along with recommendations as follows:

SUMMARY OF FINDINGS -

Consultants Analyzed:

- o Existing Surveys, utilities and mechanical systems
- o Fuel storage and delivery systems
- o Wind and wave data
- o Original dredging during construction & 1994 project
- o Electrical and fire protection systems
- o Existing park and vehicle/pedestrian traffic patterns
- o Alternatives for expanded guest moorage layout
- o Permit issues

Recommendations:

- o SEPA permit coordination
- o Need more topographic & bathymetric surveys
- o ADA requirements developed for all three phases

GEOTECHNICAL REPORT -

Soils Engineers Analyzed:

- o Subsurface conditions
- o Developed criteria for bulkhead design, pile installation, pavement and seismic requirements for any future buildings

BULKHEAD ALTERNATIVES -

Alternatives:

- o All steel vs. combination of concrete & steel
- o Cantilevered vs. tie-backs (tie-backs require more excavating, but less cost)
- o Constructability vs. construction-cost risk
- o Railing/walkway. Looked at way to maximize walkway capacity. Scored concrete walkway with seating & landscaping. Railing with mesh panels to meet code requirements

STATISTICAL ANALYSIS OF WAVE CLIMATE & SEA LEVEL RISE -

Wave Direction:

- o SW 224 deg
- o NW 318 deg - Summer, primary concerns with wave action

Sea Level Change:

- o Expected to rise, recommend raise level of north bulkhead

Analyzed Existing Conditions Based on Following:

- o Wave heights at the entrance and within the basin should be no higher than existing conditions
- o Entrance channel width needs to remain the same - 75 ft. wide

In conclusion, Harbormaster Dusenbury noted that the real challenge is going to be the escalation of construction costs.

Draft Ordinance No. 03-075 City Park Use Relations

Assistant City Attorney Brown informed Council that the draft ordinance updates City park use regulations, providing additional regulations and clarifications, and identifies conditions under which City Council approval is required for use of or an event involving City property. He proceeded to review the draft ordinance noting the following items:

- Section 2, (9). Provides for reimbursement for City costs for supporting events at discretion of the City Council.
- Section 7 provides for better definitions.
- Pages 3 and 4 provide similar conditions as to the recently approved ordinance concerning right-of-way permits.

MOTION was made by Councilmember Sherman, seconded by Councilmember White, to pass Draft Ordinance No. 03-075 to a second reading for enactment on the next available consent calendar. [ED NOTE: Friendly amendment accepted to delete next available consent calendar.]

MOTION was made by Councilmember Sherman, seconded by Councilmember White, to amend the draft ordinance to add the word “significant” on page 5, number (9) between the word ‘a’ and ‘public’. Motion passed 6 to 0.

Councilmember Steenrod questioned why in Section (5) the term “non-domesticated” was used. Parks and Recreation Director Thorell responded that this deals with sea life in tidal areas of parks. She pointed out that the Beach Naturalists volunteers will have an opportunity to educate the public on the appropriate behavior in tidal areas. She noted that the City does not have the Police force or Park personnel to monitor behavior. However, she advised that she hopes to educate the public on what types of behavior are appropriate.

In response to questioning as to who will be enforcing park rules and what types of penalties will be applied, Parks and Recreation Director advised there will be civil infractions applied the same as breaking any Park Rule, which is already contained within the Park Code. She noted that new signage will be installed, and educational information will be provided in Park and Recreation brochures, the City Currents and by the Beach Naturalists. A 911 call would have to be made for a Police Officer to respond to enforce violations and write appropriate citation.

Mayor Pro Tem Thomasson noted that specifics should be listed for the Marina and the Fishing Pier rather than just relying on vague terms as “specific activities”. He proceeded to detail various sections of the draft ordinance that he would like to see changed, noting some of the following items:

- Section 3(8): Terms such as organ grinder, fakir and bootblack among others are antiquated. Need to use more modern terms.
- Section 3(10): Strike the words “religious or political meeting or other”.
- Section 3(11): There are no lakes or sloughs in Des Moines.
- Section 2(1): Recreation areas need clear definition.
- Section 3(5): List exemptions.
- Section 3(17): Model cars should be allowed. (Parks & Recreation Director cited safety concerns.)
- Section 3(12): Too wordy and complicated.

He concluded by stating if Council is going to update this section of the Code it should be looked at as an opportunity to clean up the whole title.

Councilmember Steenrod noted that in regards to Section 3(9), she would not want this to stop someone from sitting in the park and strumming on a non-amplified guitar. She voiced agreement with Mayor Pro Tem Thomasson, that this is an opportunity to review this section of the Code and bring it up to date.

Councilmember Sherman stated that he believed some of the changes as mentioned, were unnecessary, feeling that the Code has worked fine through the years.

Mayor Sheckler questioned the maker and seconder of the motion if they would be willing to have their motion read “to a second reading”, not on the consent calendar. This was agreeable as a friendly amendment.

City Manager Piasecki advised this item will most likely be placed on Council’s August 12th meeting Agenda.

VOTE ON MOTION: Motion passed unanimously 6 to 0.

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

NEXT MEETING DATE

Mayor Sheckler announced the next regular meeting will be July 8, 2004.

ADJOURNMENT

At 10:08 p.m., **MOTION** was made by Councilmember White, seconded by Mayor Pro Tem Thomasson and passed unanimously, to adjourn.

Respectfully submitted,

Denis Staab
City Clerk