REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES September 7, 2006

The regular study session of the Des Moines City Council was called to order at 7:32 p.m. by Mayor Sheckler in the Council Chambers, 21630 11th Avenue South, Suite B.

PLEDGE OF ALLEGIANCE to the Flag was led by Councilmember Scott.

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, Dan Sherman and Susan White. Also in attendance were Acting City Manager Grant Fredericks, City Attorney Linda Marousek, Assistant City Attorney Richard Brown, Police Chief Roger Baker, Police Commander John O'Leary, Land Use Planner II Denise Lathrop, Parks and Recreation Director Patrice Thorell and City Clerk Denis Staab.

DISCUSSION ITEMS

Potential Beach Park Concession Agreement

Parks and Recreation Director Thorell advised Council that the purpose of this item is to present and recommend a proposal by Tillicum Village and Tours to enter into a partnership with the City related to the management of Des Moines Beach Park Historic District facilities. She informed Council the proposal would include a cultural/heritage theme, providing multi transportation and certainly increase tourism and economic benefits, which are currently underutilized. She introduced Mark Hewitt, President of Tillicum Village and Tours and Vice President Roberta Greer.

Mr. Hewitt informed Council that his group brings to the table a well established reputation earned over their forty-four year history of providing exceptional northwest cultural events in a public/private partnership with Washington State Parks. He noted that the Tillicum Village and Tours' proposal for Des Moines Beach Park focuses on the opportunity to share the blended cultures of the local Native American peoples, the pioneers that settled along our shores and logged the forests, as well as the rich church camp history that flourished for many years. He stated that Tillicum Village would like to enter into a multi-year contract to provide facilities management and that proposed operational responsibilities would include: marketing and sales, scheduling and programming, regular maintenance and utilities, along with property and liability insurance. The management agreement could include options for purchase of commercial kitchen equipment for the rehabilitated dining hall to meet the needs of his groups operations. He advised that the Beach Park Auditorium would be ideal to provide conference, convention and corporate events, and would be very beneficial to the City. He further noted that the rustic nature of the Beach Park historic buildings, the creek and saltwater beach provide the perfect setting for native craft and cultural programming as well as environmental education for school children, youth groups, seniors and families.

Councilmember Sherman advised that a 15-20 year contract would be a big commitment and questioned whether the group would consider a shorter term. Mr. Hewitt advised they are willing to work with the City, but the kitchen equipment alone would require a substantial investment and they need time to recoup their investment. He advised initially he is most interested in the auditorium and the Founders Lodge.

Councilmember Sherman advised that he would want to honor existing community events and felt Council has not yet determined exactly how the City wants the Park to develop. He also pointed out use of the Marina facilities for Tillicum Village can be a separate issue as one is not contingent upon the other. He felt that by bringing tourists to the Beach Park there could be benefits to the local community.

Upon questioning, Mr. Hewitt stated his company tries to work with and use local suppliers whenever possible.

Mayor Pro Tem Thomasson expressed some concern with the emphasis being placed on the commercial use by Mr. Hewitt, especially since the Park was purchased by citizens for citizens use. Also, the fact that catering and concessions food would be too expensive for some.

Mr. Hewitt noted the facilities would be available for weddings and family reunions and his group would provide flexibility. He advised they would try to make the facilities available to all from low income on up.

Mayor Pro Tem Thomasson questioned how much Marina space would be needed.

Councilmember Pina stated he shares Mayor Pro Tem Thomasson's concerns and while he is not opposed to the proposal as presented, would like to see other bids from other firms. He would prefer more time to study other alternatives.

Councilmember White advised that she feels this is a perfect public/private partnership, flexible with a great vision for the community, and with a group with a great reputation.

Councilmember Scott expressed concern about damage to the history of the Park including the church, logging, local Indians and the Drapper family. She felt many items should be completed such as flooding issues, picnic shelter and final plans for the dinning hall. She suggested bringing back some cabins that have been moved to be used as "mini" informational sites for the history of the Park. She noted the vast potential for using a group such as Tillicum Village, but felt it requires much more study and discussion. She agreed that Tillicum Village is unique and sees no need to seek other bids, unless we are only discussing management of the Park.

Councilmember Kaplan advised this is the first time Council has had this conversation. He would prefer to see a balance with adequate access to the Park by local citizens. He felt a schedule for completion of updating all the Parks facilities and other financial commitments need to be determined. He would prefer this topic go to a Council committee for further study.

Councilmember Sherman felt staff needs to know Council's concerns. He stated he likes this firm with their unique focus on history and environment, and he does not want to scare them away.

MOTION was made by Mayor Sheckler, seconded by Councilmember Scott, to remand the proposal by Tillicum Village and Tours to partner with the City related to the operation of Des Moines Beach Park facilities to the Municipal Facilities Committee for further review.

MOTION was made by Councilmember Pina, seconded by Councilmember Kaplan, to amend the motion by adding: and to proceed with request for proposals for the Management of Des Moines Beach Park.

Mayor Pro Tem Thomasson, speaking against the amendment, felt that the Committee should study the proposal from Tillicum Village and define the issues before deciding if we need to look further. He advised that Council may decide we need management of all City facilities.

Councilmember Scott spoke against the amendment as she does not feel there is enough information yet to put out a RFP.

VOTE ON AMENDMENT: Motion failed 4 to 3 with Councilmembers Scott, Sherman and White, and Mayor Sheckler opposed.

VOTE ON MAIN MOTION: Motion passed 5 to 2 with Councilmembers Pina and Sherman opposed.

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

Executive Session

At 9:17 p.m. Mayor Sheckler announced that the Council will go into an Executive Session.

City Attorney Marousek stated the purpose of the Executive Session is 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. She noted the session is expected to last 15 minutes.

Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, Dan Sherman and Susan White. Also in attendance were Acting City Manager Grant Fredericks, City Attorney Linda Marousek, Assistant City Attorney Richard Brown and Chief of Police Roger Baker.

No formal action was taken.

Adjournment: The executive session adjourned at 9:33 p.m. and reconvened in open session.

Respectfully submitted,

Linda Marousek
City Attorney

Des Moines Creek Business Park - Update

Acting City Manager Fredericks informed Council that staff, along with the City Attorney and the Port's attorney have been meeting once or twice a week through the summer to discuss the Des Moines Creek Business Park project.

Land Use Planner II Lathrop distributed an updated activity schedule for the project. She noted the following primary activities: the EIS for the project is underway, the City is working with

the Port formulating a second development agreement, coordinating with Port staff on both the street and plat vacation process, and a component of that, a street appraisal process. She noted the schedule details certain activities that are going on concurrent with the EIS. She advised the schedule has been set back about 4 weeks due to the fact that on the Port's side the FAA is required to review projects that result in a change of use or activity from an airport use to a business park use. Also this will trigger a process known as the National Environmental Policy Act review. She informed Council that staff will provide general briefings to Council in terms of process, but will not be able to go into any detail until after the EIS is published, due to the appeal process, which is sometime in mid-March 2007. She advised that after discussions with the City Attorney, staff can discuss with Council at a committee level an Economic Benefit Study, which is helping the Port determine what kinds of activities that may want to phase into their development, as well as the review of the street appraisal.

City Attorney Marousek advised Council that the second development agreement is quasi-judicial and Council should only consider this in an open public meeting. The street vacation is a legislative decision so it is appropriate for a Council committee to review various portions of that. However, she noted the street vacation will be handled through a public hearing process, so decisions can only be made by the Council as a whole. The SEPA appeal of the EIS will be a quasi-judicial decision so Council should let staff do their work and if there is an appeal, then Council would make the quasi judicial decision on that. She noted that in accordance with State Statute plat vacations will be processed with the Street Vacations, which will make this a quasi-judicial decision versus a legislative decision.

Mayor Pro Tem Thomasson stated that this is a huge activity for Des Moines and he would prefer all items to come before the full Council, versus a committee, so everyone is on the same knowledge level. He requested that as soon as the draft EIS is available, it will be made available to Council to read, even if it is not discussed, as it will be a major underpinning of what the SEPA agreements are and any conditions.

Mayor Sheckler agreed the project should be discussed by the Council as a whole.

Councilmember Kaplan expressed agreement with Mayor Pro Tem Thomasson that due to the scope of the project all Councilmembers need to hear details at the same time.

Acting City Manager Fredericks noted at the end of the EIS appeal period is when the project becomes intense and he suggested Council discuss with the Mayor the potential for possible special meetings. He reminded Council there is a need to coordinate with the Port Commission to work through the process.

Upon questioning by Mayor Sheckler, Council's CONSENSUS was not to remand issues to a Council committee.

Draft Ordinance No. 06-073, Amending Hotel/Motel Ordinance - 1st Reading

Police Commander O'Leary noted that the Hotel/Motel Ordinance passed in 2003 has been effective and reduced the number of Police calls while resulting in arrests of a number of criminals, however the current ordinance does not adequately address the few properties continuing to have a high number of calls for service. He advised that the draft ordinance will impose the following conditions if the annual calls for service continue to be greater than 1 per unit for a period of one year:

Section 1:
1. The hotel/motel must pay a "crime prevention service fee" of 100.00 per rental unit per moth;
2. The hotel/motel must have a licensed, armed and uniformed security guard on the premises every day from 6 p.m. until 6 a.m.; and
3. Adds a violation of DMMC 5.60 if after compliance with all of the requirements of this new section for a period of one year, the annual calls for service continue to be greater than 1 per year. This will provide the basis that will allow the City Manager to revoke the business license.

Section 2:
Amends DMMC 5.60.080 by changing the title from "Enforcement" to 'Revocation of Business License', and removes the language limiting the time for revocation or denial of renewal of the license.

Section 3:
Adds a new section to DMMC 5.60 establishing conditions for approval of any subsequent application for a business license to operate a hotel/motel on the same property following a period of revocation.

Section 4:
Amends the enforcement section of DMMC 5.60.100 that will make a violation of the ordinance a Class 1 Civil Infraction and allow the City to seek fines and penalties in accordance with the City's civil infraction code in addition to other remedies.

Assistant City Attorney Brown informed Council that the draft ordinance establishes another tier level and puts a time limit on how long they can have a high call level in one year, after which it becomes a violation, the business license can be revoked and staff can proceed to abate the business as a nuisance.

It was pointed out that on the first page of the draft ordinance under (2), last sentence should read "greater than 1.00 per unit, per year".

Mayor Pro Tem Thomasson stated he does not mind requiring the owners to hire a security guard, but he is not sure that will stop calls for service. He felt shutting the business down is extreme, but may lead to redevelopment of some portions of the highway sooner than later. He questioned, since some businesses are still not complying, whether we would be better off revoking the business license much sooner as opposed to dealing with more requirements regarding on site security and policing.

Police Chief Baker noted we have been successful in some areas, while a couple of businesses cannot seem to be in any compliance. He advised the draft ordinance offers another opportunity for them to come into compliance by adding another tier without going directly to revocation of the license. If Council desires to shorten the extra compliance to six months, the Police department would be supportive.

City Attorney Marousek noted that the draft ordinance does contain steps that are necessary in order to take business license revocation action. She advised this is true whether Council adds the fourth tier or not.

Mayor Pro Tem Thomasson noted he would prefer not to require the fourth tier for a armed uniformed security guard, as this is something they should do on their own. He felt that if the hotel/motel owner knew there was an imminent threat of losing their business license, they would take more action to run their business better.

MOTION was made by Councilmember White, seconded by Councilmember Pina, to suspend Council Rule 26(b) in order to enact Draft Ordinance No. 06-073 on first reading. [ED NOTE: Motion later withdrawn.]

Councilmember Sherman felt that the hotel/motel owners have been given more than ample time to comply with current regulations and they should not be given an extra year. He stated that perhaps the City has been too lenient and since crime is disruptive to the community, we should shut them down sooner.

MOTION - At 10:25 p.m. Councilmember Kaplan moved and Councilmember Pina seconded, to continue the meeting to 10:45 p.m. Motion passed.

Councilmember Kaplan reminded Council that we must follow due process in order to shut businesses down and to uphold an abatement argument in Court.

Councilmember Pina stated he wants to see the loop hole closed for selling these non-compliant businesses to relatives or friends and starting the time clock for compliance all over again.

Mayor Pro Tem Thomasson advised he would rather see calculations that use a 6 month period versus one year.

Upon questioning, City Attorney Marousek noted she needs more time to investigate time periods, particularly in regards to using the abatement process, but feels 6 months may be too short.

Mayor Sheckler noted he will not support the motion on the table as staff needs more time to review the issue.

Councilmember White WITHDREW her previous motion.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Pina, to pass Draft Ordinance No. 06-073 to a second reading for enactment on the next available agenda. Motion passed unanimously.

After brief discussion, it was determined that Councilmembers should contact Assistant City Attorney Brown with concerns or changes they wish to see in the draft ordinance.

VOTE ON MOTION: Motion passed unanimously.

Smith, Alling & Lane Correspondence

Councilmember Pina requested that the recent correspondence offering free advice and guidance relative to traffic light cameras be submitted to the Public Safety and Transportation Committee to gather more information to bring back to the Council as a whole. Council concurred.

NEXT MEETING DATE

Mayor Sheckler noted the next regular meeting will be September 14, 2006.

ADJOURNMENT

At 10:45 p.m. the meeting adjourned as time expired.

Respectfully submitted,

Denis Staab
City Clerk