REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES September 14, 2006

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

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

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 City Manager Tony Piasecki, City Attorney Linda Marousek, Assistant City Engineer Loren Reinhold, Planning, Building & Public Works Director Grant Fredricks and City Clerk Denis Staab.

COMMENTS FROM THE PUBLIC

Clark Snure, 27423 8th Avenue South - President of the Des Moines Legacy Foundation

Mr. Snure read a letter from the Legacy Foundation to Parks and Recreation Director Thorell, presenting the patio furniture, garden and water feature at the Des Moines Activity Center known as Mary's Rose Garden. He acknowledged the gift to the City was made possible from funds raised by the Foundation. He concluded by advising the patio furniture, garden and water feature will become the property of City, and all equipment information, warranties, contracts and documentation of the work done is on file with Board member and City employee Sue Padden.

V. Staab, 21628 28th Avenue South

Ms. Staab advised Council that a lot of people have not had a good experience with Indians. She spoke against having a contractor take over control of City property, stating the City should only be in the position of informing a contractor what the City wants. She concluded by stating she believes the City does not need a lot of advertising. [ED NOTE: Ms. Staab's comments are in reference to the presentation by Tillicum Village and Tours, at the Council meeting of September 7, 2006.]

Wayne Corey, 22218 5th Avenue S, #101, Member of the *Enhanced Public Safety Committee*

Mr. Corey briefed Council on recent activities of the Committee:

- Supporting South King Fire & Rescue Levy Lid Lift
- Saturday, Sept. 16th Open House at old Fire Station #26 11 a.m. to 3 p.m.
- Medic I unit operating out of Fire Station #26 9 a.m. to 9 p.m., will be full time in next few months
- Co-sponsoring Flu Pandemic Forum at various facilities in the City of Des Moines
- Passed out copy of an Emergency Preparedness Checklist produced by Police and Fire Departments
- Working to have information on City's Web site with an e-mail address to receive more information on various activities

Anthony Spain, Music Director of the Northwest Symphony Orchestra

Mr. Spain informed Council that the Orchestra performs locally at the Highline Performing Arts Center, provides concerts and education programs benefiting Children's Hospital. He advised that the Orchestra would welcome an opportunity to extend the City's visibility and would like to work with the City to perform for the opening of the Auditorium at Des Moines Beach Park. He concluded by requesting Council consider the Symphony Orchestra as a line item in the 2007 City Budget.

BOARD & COMMITTEE REPORTS & COUNCILMEMBER COMMENTS

Des Moines Historical Society Meeting

Councilmember Scott reported attending a meeting last night where a presentation, including video, was given regarding the construction of the Des Moines Marina. Former Planning Agency Member and long time Councilmember Tom Mannard, member of the Council's Marina Committee which did the background work for the Marina, was in attendance. She noted she learned the two totem poles located at the Marina were carved by Lummi Indians. She concluded that it was an interesting evening.

Mary's Garden

Councilmember Scott acknowledged resident Keith Noess for his donation of endless hours in planting the garden.

Public Safety & Transportation Committee

Councilmember Kaplan stated the Committee has met twice in the last two weeks. Last weeks meeting focused on finding funding to complete the projects on the current Capital Improvement list for transportation, including a paving program. He advised some detail may be provided during the September 30th special meeting for the preliminary 2007 budget discussion. He advised tonight's discussion focused on the proposed changes regarding the hotel/motel ordinance that was considered last week and he feels staff is on track to make changes Council wishes to consider. Other projects discussed included the potential for cameras to catch people speeding or running red lights. He cautioned this topic is just under consideration and the Committee has requested staff gather more information prior to the Committee making any decisions. The last item was concerning the 16th Avenue South Project, Phase I, between South 272nd and South 260th, in terms of working with all the utility districts to complete the project as soon as possible, with minimum impacts to the community.

Des Moines Historical Society Meeting

Councilmember Kaplan also reported attending the Society's meeting last night and found the presentation regarding all the steps taken in building the Marina very interesting. He noted when the participants in the presentation were asked what was the one thing they would have changed, they stated that they should have provided more slips and less parking. He encouraged everyone to visit the Society's museum or join the membership.

16th Avenue South Project

Councilmember Pina advised that he has been impressed with the collaboration between the various utilities and the City in accomplishing everything at once.

Public Issues Committee of the Suburban Cities Association

Councilmember Pina reported attending a Committee meeting last night. He was pleased to report that the issues and positions that Des Moines' wished they would take have been over all pretty much been adopted. This includes accommodating residential population in urban areas, housing growth first where there is existing infrastructure, improving the balance between housing and jobs, recognizing the individuality of cities and letting city management, manage their city and its growth, and establishing no minimum growth size, including 4 units per acre.

Councilmember Pina advised that considerable discussion centered on Transit Now, where METRO is proposing to submit to the voters in November a 1 tenth of percent increase in sales tax to improve the Metro bus services. Discussion indicated not many people knew how Metro planned to improve services. He stated many cities, like Des Moines, need an east/west flow, while the flows being proposed by Metro are north/south. He noted he is requesting Council's consensus on whether Des Moines supports Metro's position.

Council's CONSENUS was they are neutral.

City Representation

Councilmember White thanked Councilmember Pina for representing the City on the Public Issues Committee as she feels this is important.

Mary's Garden

Councilmember White thanked the Legacy Foundation for their efforts for the Garden installation at the Activity Center.

Beach Park Auditorium

Councilmember White reported that she and Parks and Recreation Director Thorell met this week with "Center Stage" from Federal Way who are interested in opportunities to use the Auditorium. She expressed hope construction can get underway in a timely manner, as a lot of interest has been indicated in use of this facility.

Redondo Community Problems

Councilmember White acknowledged the high level of problems, such as drugs and drag racing, experienced this summer in the Redondo area. She thanked Administration for the attention to this matter. She noted she and City Manager Piasecki met with the owners of Salty's who are considering helping the City and Highline College with some parking issues in the area.

Municipal Facilities Committee

Councilmember Sherman reported that the Committee met last week, and this week, to continue review of the Marina Master Plan. He noted the item will be on the September 28th Council agenda, with no specific recommendations, to review various options.

Positive Community Activities

Councilmember Sherman acknowledged there are many mature citizens involved in positive activities in the community. However he wished to draw attention to a 17 year old Mount Rainier student, Justin Mosier, who recently arranged a memorial swim from Des Moines to Maury Island in memory of Brent Rice a former Mt. Rainier student, who was very involved in the school's swim team and was a mentor to Mr. Mosier, and was killed in an auto accident two years ago. He also noted Mr. Mosier is in the process of establishing a Memorial Scholarship Fund in Brent Rice's name to provide swim lessons at Mt. Rainier Pool to youth who can't afford to pay. He stated anyone interested in learning more can visit Mr. Mosier's web site at reelfocusfilms.com, or contacting the Legacy Foundation to inquire about the scholarship fund. He stated this is a great example of community spirit by youth.

Environment Committee

Mayor Pro Tem Thomasson noted the Committee met in late August, discussing the critical areas ordinance. He noted there is an information item in Council's packet with an update on the draft ordinance. He advised the Committee is expecting a report back on questions they had and another meeting will be scheduled soon.

PRESIDING OFFICER'S REPORT

Economic Development Committee

Mayor Sheckler advised that lists have been compiled for contacting developers regarding the Pacific Highway South area development and letters will be going out soon.

2nd Annual Chevel and El Camino Show

Mayor Sheckler reported the 2 day event was held in August and he got to pick out a car for the 'Mayor's Award'. He displayed a plague presented to the City for hosting the Northwest Regional Event.

ADMINISTRATION REPORTS

2006 MCI Fund

City Manager Piasecki reminded Council that the MCI Fund has an item to fund a space study and improvements to City Hall. He noted staff is finalizing a contract with Lawhead Architects for a space study for both wings of City Hall, Engineering Building, Police Department Building and the Field House. The study will look at if we need to reconfigure, whether it would be appropriate and what costs would we incur. He advised along with this item was paint and carpeting for the north wing of City Hall. He noted that the contract called for them to be certifying they will be using prevailing wage for their bid proposal and it turned out it did not. He informed Council that this means we need to bring a contract to Council for approval which most likely will be on the September 28th Agenda.

Landscaping - Mary's Garden

City Manager Piasecki informed Council that he has received proposals for installation of grass around Mary's Garden. He informed Council that a proposal to grade, prep, provide top soil, raise up irrigation heads and hydro seed was submitted for $21,000. The cost for sod would be $37,500. He noted that when Councilmember Scott brought this project up, she advised that there is a proposed project in the 2007 CIP to also landscape other parts of Steven J. Underwood Park, therefore he questioned Council whether staff should move forward with this portion or wait until next year, and do the whole project at one time, where overall costs could be less.

Lights at Wooten Park

At the request of Councilmember White to replace damaged lights at the Park, City Manager Piasecki reported staff is investigating lights similar to those at the Activity Center and, also are talking with Puget Sound Energy to see what they would charge for something similar to regular street lights, where they would own the lights and we pay a monthly fee. He advised Puget Sound Energy would be responsible for any problems. He noted he may have a proposal as early as September 28th for Council's consideration.

Huntington Park - Private Streets

City Manager Piasecki informed Council that Huntington Park has asked staff to investigate the possibility of having the City's Police Department enforce the speed limits in Huntington Park.

He reminded Council the streets are private streets, and without a written agreement between the parties, we cannot enforce speed limits and most traffic offenses. He advised he is meeting with Mr. Peterson of the Home Owners Association and trying to work out details. He noted he will report progress to Council as it occurs.

Draft Ordinance - International Building Code

City Manager Piasecki informed Council a very large draft ordinance has been placed in Council's boxes. This ordinance would adopt the new International Building Code, including the new plumbing, mechanical, fire, etc. He advised this would simply adopt the codes with modifications that would mirror what is currently in our current codes. He noted this has not been updated for several years. He stated that the Finance and Economic Development Committee has been briefed. He pointed out that the draft ordinance will be on the September 28th Consent Calendar as it is housekeeping in nature, but due to its size Council is being given a couple of weeks to review.

Mayor Sheckler concurred that the draft ordinance is indeed housekeeping in nature and does not change any long standing building code requirements. For that reason, and after review by the Finance and Economic Development Committee, he authorized placing this item on the Consent Calendar.

Councilmember Kaplan remarked that most citizens he has spoken with have expressed a frustration with the application of the International Building Code. A couple of examples dealt with installation of new windows and the City interpreted it to require hard wired smoke detectors to be installed. He questioned whether this is a policy question, and not just housekeeping.

Consent Calendar Item #6

City Manager Piasecki advised that Item #6 has been removed from the Consent Calendar as staff has reached a settlement with the property owners involved.

Huntington Park Private Streets

Upon questioning by Councilmember Sherman, City Manager Piasecki advised that at minimum he will expect Huntington Park to pay for all speed limit signs and see that they are posted properly. He noted the City does enforce all other parts of the Criminal Code in Huntington Park and do normal patrols, therefore he has not determined yet whether we would actually charge them for an officer to perform traffic patrol. He felt that if it works within our normal patrols and does not become burdensome then there will be no charge, but they also would not get to keep any fines that might be assessed. He noted RCW provides that this agreement will be between the private property owners and the Chief of Police, and therefore will not come back to Council for approval.

Mary's Garden Landscaping

Upon questioning by Mayor Pro Tem Thomasson, City Manager Piasecki advised that he brought this item to Council's attention, so that if there are 3 Councilmembers, or the Mayor, who wish to place this item on a future agenda for discussion, we will do so. If not, then he will take that as direction to follow the CIP.

International Building Code

Mayor Pro Tem Thomasson noted that the State adopts the Code and then expects cities to adopt it. However, he noted there is a process that local agencies must go through in order to adopt more than just the basic code. He stated that even though the changes are reportedly just restating what we already have, he questioned whether the State will consider those new changes.

City Attorney Marousek advised that the State Building Council is required to approve changes to the International Code when they affect single family residential construction. She noted that the exceptions to the various International Code do not affect single family construction, except for those that already exist and have been previously approved.

Mayor Pro Tem Thomasson expressed agreement with Councilmember Kaplan that this would have been a good opportunity to deal with some policy questions and whether we want to continue do all things that we have been doing. He advised that what he wants addressed deals with the Fire Code and what it is that the City staff enforce versus, what the Fire District enforces, and whether City staff has the expertise.

City Attorney Marousek informed Council that the City cannot enforce the International Building Code unless we have adopted it. She suggested that rather than spending a couple of years debating policy issues, Council should adopt the document and then bring various policy issues to staff's attention for further consideration.

Councilmember Kaplan stated he is willing to support the adoption on the Consent Calendar, if there is commitment to review the Code and make the changes that need to be made. He advised he will not let this sit, as there is, in his opinion, unequal application, misunderstanding of intent, or something that is not applicable in meeting the needs of City residents and builders.

Councilmember Pina agreed with Councilmember Kaplan and requested a special meeting in January or February to review the issues. Councilmember White expressed agreement.

Space Study

Councilmember Sherman noted that when the City Hall South Wing was constructed, conversation dealt with filling in the Courtyard area. He questioned if this is under consideration.

City Manager Piasecki advised we need to first determine what our space needs are, what is available and what can we do with what we have. If what we have is inadequate then filling in the Courtyard is certainly an option.

After further discussion, it was determined by Council's consensus to remand this item to the Municipal Facilities Committee.

CONSENT CALENDAR City Clerk Staab noted Consent Item #6 has been pulled as it is no longer needed and read the remainder of the Consent Calendar into the record.

1. Motion is to approve the special and regular minutes of July 27, the special minutes of July 31, and the regular minutes of August 10, 2006.
2. Findings: Vouchers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing which has been made available to the City Council.

<u>Motion</u>: 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 #105389 through #105864 & electronic fund transfers in the total amount of $1,788,575.72

Payroll fund transfers in the total amount of $302,131.59

3. <u>Motion</u> is to approve extending the contract with American Building Services through August 15, 2007, for janitorial services for the City owned buildings, and to authorize the City Manager to sign the Contract Addendum/Amendment substantially in the form as submitted.

4. <u>Motion</u> is to recognize September 30, 2006, as *"Mayors Day of Concern for the Hungry"* in Des Moines.

5. <u>Motion</u> is to accept 6,274 square feet of land for use as a slope easement dedicated by the Salvation Army at no fee to the City and to authorize the City Manager to sign the Slope Easement substantially in the form as submitted, accepting the right-of-way on behalf of the City of Des Moines.

~~6. Draft Ordinance No. 06-206 - Title: An Ordinance of the City of Des Moines, Washington, relating to the acquisition by eminent domain of certain properties in the City of Des Moines; describing the public convenience, use and necessity of such properties; providing for the condemnation, appropriation and taking of such land, including the mode of payment of cost of acquisition; and directing the City Attorney to prosecute such action in King County Superior Court.~~

~~TWO MOTIONS: First motion is to suspend Council Rule 26(b). Section motion is to approve Draft Ordinance No. 06-206.~~ [ED NOTE: Item was pulled as no longer needed.]

7. <u>Motion</u> is to authorize staff to advertise a Request for Proposal for a Pavement Management Program Multi-year Design Consultant.

8. <u>Motion</u> is to surplus the following vehicles: 1997 Ford Taurus VIN #1FALP52U8VA209239, 1995 Ford Escort VIN# 3FASP15J2SR150650, 1991 Chev S 10 Pickup VIN #1GCCS14AOM8201033, 1997 GMC Truck VIN # GTCC29R3VE527821 and 1997 Ford Truck VIN # 1FDKF37H5VEB81154 and to authorize disposal of said equipment by auction, sale or transfer to other departments or Agencies.

9. <u>Motion</u> is to accept the donation of the completed Mary's Garden Project at Des Moines Activity Center from the Des Moines Legacy Foundation to the City of Des Moines.

10. <u>Motion</u> is to purchase 163 square feet of land to be used for a utility easement from Bernard and Lena Straight in the amount of $900.00 and to authorize the City Manager to sign the Utility Slope Easement substantially in the form as submitted, accepting the right-of-way on behalf of the City of Des Moines.

11. <u>Motion</u> is to purchase in fee 56 square feet of land, 464 square feet of land for a slope easement from property owners Glen and Ronda Ornburn, and compensate said owners related settlement costs, totaling $16,100 and to authorize the City Manager to sign the Statutory Warranty Deed and the Slope Easement substantially in the form as submitted, accepting the right-of-way on behalf of the City of Des Moines.

12. <u>Motion</u> is to approve the Interlocal Agreement with Okanogan County Sheriff's Office for Jail Services and authorize the City Manager to sign the agreement substantially in the form as submitted.

13. <u>Motion</u> is to approve the Interlocal Agreement with Chelan County Regional Justice Center for Jail Services and authorize the City Manager to sign the agreement substantially in the form as submitted.

Consent Item #7 - Mayor Pro Tem Thomasson questioned how many years constitutes 'multi-year' contract. Response was an initial 2 year contract, with option to extend based upon performance of up to 3 additional years.

Consent Item #3 - Mayor Pro Tem Thomasson questioned what happens come next August. City Manager Piasecki noted that currently the service seems to be adequate. We can judge in the future if it is appropriate public policy to simply extend again, or is it good public policy to revisit.

Mayor Pro Tem Thomasson questioned whether there are other requests for proposals that should have gone out that have not. City Manager Piasecki stated he would have staff review.

Consent Item #5 - Councilmember Kaplan thanked the Salvation Army for dedicating the right of way rather than charging the City for making the improvement in front of their facility.

Consent Item #9 - Councilmember Kaplan thanked the Des Moines Legacy Foundation for the contributions to Mary's Garden.

Consent Items #12 & #13 - Councilmember Kaplan asked if the City coordinate transportations with other jurisdictions. City Manager Piasecki responded in the affirmative.

Regarding RFPs - Councilmember Sherman felt that as a matter of policy, we need to be looking at contracts on some kind of regular basis so we do not create a monopoly of service without reviewing our contracts. He recognized the benefit to the City to extend a contract at no additional charge, on the other hand, he does not want to create a monopoly.

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

Executive Session

At 8:45 p.m. Mayor Sheckler announced that the Council will go into an Executive Session and then will take a 10 minute break before resuming the regular meeting.

City Attorney Marousek advised the purpose of the special meeting will be to hold an Executive Session for approximately 15 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.

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 City Manager Tony Piasecki, City Attorney Linda Marousek, Assistant City Attorney Richard Brown and Court Administrator Jennefer Henson

No formal action was taken.

Adjournment: The executive session adjourned at 9:00 p.m. and reconvened in open session after a 10 minute break.

OLD BUSINESS

Rejection of Bids - Redondo Police Substation Tenant Improvement Project

Building & Public Works Director Fredricks advised Council that administration is recommending Council reject all bids received for the tenant improvements at the Redondo substation. He stated there are some serious concerns regarding the competitiveness of the price. He noted there are several options as follows:

1. Choose to award the bid, which would require programming additional funds, somewhere in the neighborhood of $130,000 over the original programmed funds of $53,000.
2. Approach the Joshua Green Corporation and ask them to go through a competitive process, following the State's requirements for projects of this type and give the City a price proposal. He informed Council that staff has not approached the company and does not know how long this might take, nor what the cost might be.

Councilmember White questioned whether the 'clock is ticking' on our lease. Building & Public Works Director Fredricks replied in the affirmative as we have had the lease for four months on a five year lease. He stated that as noted at the Public Safety & Transportation Committee (PS&T) meeting, the Chief of Police believes we might be able to start the clock over.

Mayor Sheckler questioned whether the PS&T Committee has a recommendation.

Councilmember Kaplan, Chairman of the PS&T Committee, stated that the members of the Committee recommended rejecting the bid unanimously, but had not made a determination on the options on how to proceed.

Building & Public Works Director Fredricks noted the final option as:

3. Commission a quick design by an architect, develop a bid package with plans and specs, then we will be able to reach a much broader group of general contractors.

He advised Council that staff would like to approach Joshua Green and explore with them how quickly they could turn the project around for the City, and what would be their conditions. He noted that if that does not prove satisfactory, then we would proceed in a more traditional way.

Mayor Pro Tem Thomasson advised that he can support rejecting the bid, but feels more discussion needs to occur on how to proceed. He felt there had been rather grandiose plans for the space in terms of meeting areas, etc. However, an underlying goal was for the Police to work out of the space to better respond to the neighborhood. He questioned if that can be done with the current facility, ie. put in a table, hook up the phone, computer and power, and at least have the Police response time that we were hoping to have, at very little cost, to deal with the policing issue.

City Manager Piasecki advised that there are some absolute minimal things that need to be done such as an electrical alarm, sprinkler system, flooring and restroom. He noted these minimal items are at least half the project.

City Attorney Marousek advised that we had looked into having the tenant improvements included with the original space lease and the conclusion was, if the tenant improvements are at our request, then it is subject to public bidding award laws.

Mayor Pro Tem Thomasson felt that if we use an architect the project will be up to $150,000. He stated that if the project cannot be done for $60,000 is this something we really still want to do. He felt this question needs to answered before Council authorizes hiring an architect. He questioned how much is too much.

Building & Public Works Director Fredricks noted this is why staff would like to talk to Joshua Green to figure out scope and scale of the project based on their experience. He advised they are the experts on the building and have built it out for other tenants.

City Manager Piasecki suggested, given the costs to do the improvements that have been proposed, either with Joshua Green or an architect, it probably is still going to come out higher than the budgeted amount. He felt we should sit down with the Police Department to see if we can scale the project back. He felt talking with Joshua Green and the Police Department can both be done.

Councilmember White stated she is not in favor of hiring an architect. She felt there has to be a way to make this work, and acknowledged that the original figure of $57,000 is probably not realistic. She noted there was a lot of community support for this substation and we need to find a way to get this priority done.

Councilmember Sherman noted his concern originally was the City did not have the manpower to staff a police substation. However, he stated that the public did step up and stated they want more policing. He felt we need to follow through even if need to make some modifications. He supports having the Chief contact Joshua Green to see if we can amend the lease to start at the time it is usable.

MOTION was made by Councilmember Pina, seconded by Councilmember Sherman, to reject all bids received for the Redondo Police Substation Tenant Improvement Project, and instruct staff to return to the Council for approval after a more cost effective solution is found.

Councilmember Scott reminded Council that Joshua Green held this space vacant for the City for two years, and is losing money in doing so. She felt that the Green company probably has a well trained crew and all we need is to have them improve it in much the same manner as they would for any tenant.

City Manager Piasecki remarked that not only must Joshua Green be paying prevailing wage, but they must also conduct some sort of competitive bid process to do the improvements.

Councilmember Kaplan stated that the City made a commitment to the community and we need to follow through.

Mayor Pro Tem Thomasson advised he is not against the project, but there probably is a dollar amount that is too much and we may need to look at another location.

VOTE ON MOTION: Motion passed unanimously.

Mayor Sheckler stressed to staff that time is of the essence and not to put this on a "back burner".

At 9:57 p.m. Due to a prior appointment, Mayor Sheckler turned the Chair over to Mayor Pro Tem Thomasson, and left the meeting.

NEW BUSINESS

Midway Sewer District Trunkline & Outfall Agreement

Mayor Pro Tem Thomasson questioned whether Council understood the agenda item. There was affirmative concurrence.

Councilmember Sherman commented that the Sewer District will retain ownership of the old outfall trunk line, except for any new portions we put in, until we have spent a total of $500,000. He questioned how much money in the first year will be applied.

Assistant City Engineer Reinhold advised it is pretty minimal, maybe around $10,000. He stated we will need to inspect the pipe to determine what actions will need to be taken.

City Manager Piasecki noted one major repair could expedite the amount spent, however most likely, it will take a long time.

Councilmember Scott remarked that this winter could be our most vulnerable for flooding without this outfall line. She noted we are putting $1 million into the auditorium along with other buildings, in the Beach Park that can be damage by floods. Therefore she wants this agreement to happen as rapidly as possible. She remarked that the agreement allows the District to terminate the agreement with 60 days advance notice, and she is concerned with the amount of improvements we are going to make in the Park, based on the idea that flooding will be contained.

City Manager Piasecki pointed out that the termination is based on the users default. He stated that if we carry out our terms of the agreement, they cannot invoke that section.

Assistant City Engineer Reinhold noted we will have some anti-flooding benefits from the regional detention facility this winter, which should be enough to off-set the fill being removed.

Councilmember Sherman noted there is a clause that if the Sewer District needs to use the old pipe they will take precedent over the City. Assistant City Engineer Reinhold responded in the affirmative, advising it is best to let the Sewer District use it for sewage, so there is no overflow of sewage into the creek.

MOTION was made by Councilmember White, seconded by Councilmember Pina, to approve the draft Trunkline and Outfall Use Agreement and to authorize the City Manager to sign the agreement substantially in the form as submitted.

Mayor Pro Tem Thomasson expressed concern that when we began the basin project planning efforts and agreed to spend all this money, the expectation was that we would end up owning the pipe. He is afraid that we will start using the pipe, which allows SeaTac, the Highway Department and the Port to build smaller drainage facilities, and then have the pipe go away and exasperate the drainage issues. He stated he is not content with the deal that the District has the right to take the pipe back. He questioned what if the District takes the pipe back, does the Port and the City of SeaTac have to make other projects go back and retro-fit to increase the capacity to what would have been required without this pipe.

City Manager Piasecki advised that Mayor Pro Tem's comments could be one solution, or we could go to the Port, SeaTac and WSDOT and tell them that they need to replace the capacity that was lost, and that they need to build a high-flow by pass.

Assistant City Engineer Reinhold stated a third option is to pay the $500,000 up front, then we own the pipe.

Councilmember Sherman felt a new clause could be added to the agreement that states that all upstream planning has to be based on the pipe not being present until such time as the Committee actually owns it. He noted he cannot support the motion as we will be the one left with flooding.

Councilmember Kaplan voiced that this is a good compromise agreement. It is not perfect, and if there are issues down the line then they will have to be addressed at that time.

VOTE ON MOTION: After further brief discussion, the motion passed 4 to 2, with Councilmember Sherman and Mayor Pro Tem Thomasson opposed.

NEXT MEETING DATE

Mayor Pro Tem Thomasson announced the next regular meeting is scheduled for September 28, 2006.

ADJOURNMENT

At 10:07 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Pina and passed unanimously, to adjourn.

Respectfully submitted,

Denis Staab
City Clerk