REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES October 8, 1998

The regular meeting of the Des Moines City Council was called to order at 7:30 p.m. by Mayor Thomasson in the City Council chambers, 21630 11th Avenue South.

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

ROLL CALL - Present: Mayor Scott Thomasson, Mayor Pro Tem Terry Brazil, Councilmembers Dave Kaplan, Bob Sheckler, Dan Sherman and Gary Towe. Absent: Councilmember Don Wasson. Also present were City Manager Bob Olander, Assistant City Manager Tony Piasecki, City Attorney Gary McLean, Public Works Director Tim Heydon, Park and Recreation Director Patrice Thorell, Senior Planner Robert Ruth and City Clerk Denis Staab.

> **MOTION** was made by Councilmember Sheckler, seconded by Councilmember Sherman and passed unanimously, to excuse Councilmember Wasson.

CORRESPONDENCE

Letter - Mark Mannard, 24327 22nd Place South

City Clerk Staab read a letter from Mr. Mannard into the record regarding potential regulations to monitor and regulate vendors that use City streets and City property as their place of business. Mr. Mannard expressed concern with "ice cream truck" service in City neighborhoods. He cited dilapidated vehicles, and questioned whether they are sanitary or a safe place for children to purchase treats. He concluded by encouraging Council to pass legislation to monitor these types of business and their employees.

COMMENTS FROM THE PUBLIC

Cliff McNeal, 28200 Redondo Beach Drive

Mr. McNeal informed Council that he owns and operates the Redondo Community Store. He complained to Council that he feels mobile vendors operating on City property have an unfair business advantage. He cited vendors using the Redondo pier facility are in direct competition with his business and although he has complied with City codes regarding signs, he feels it is almost impossible for staff to control these mobile vendors. He further noted that by City Code he is required to provide parking for customers while these vendors are able to use City property. He questioned whether the City might be liable for any injury that might occur from these businesses since they are operating on City property. He further noted that he pays property and sales tax to the City and he highly doubts whether these types of vendors pay any taxes. In conclusion, Mr. McNeal requested Council consider legislation prohibiting mobile vendors on City property.

John Sullivan, 28303 Sound View Drive #106

Mr. Sullivan spoke in opposition to issuance of business licenses for any vendors to do business in the Redondo parking lot. He stated that there is not enough room. He further noted that bait vendors have woken him up as early as 5 a.m. hawking their merchandise. He encouraged Council to draft an ordinance prohibiting any commercial vendors within the boat parking lot or boat ramp area. He concluded by complimenting the police and park service that the area has received since being annexed into the City.

ADMINISTRATION REPORTS

Finance Director

City Manager Olander announced that after the interview process and back ground check, he has hired Scott McCarty as the new Finance Director. Mr. McCarty's start date is November 9, 1998.

QFC Store Easterly Back Parking Lot Exit

City Manager Olander informed Council that Washington State Department of Transportation is working on a modification to the exit from the store's parking lot on to 7th Avenue South. This modification will be to increase sight distance and is expected to only have a minor impact on the City park to the north.

Vacation

City Manager Olander advised Council that he will be on vacation next week and Assistant City Manager Piasecki will act as City Manager during his absence.

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the minutes of September 24, 1998.

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 42.24.080, 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 check #63942 through #64086 in the total amount of $831,423.77
Payroll fund transfers in the total amount of $215,660.73

~~3. Motion is to award the contract for the Des Moines Transportation Plan Update to the Transpo Group in the amount of $67,779.00 plus a 10% contingency, and further to authorize the City Manager to sign said contract substantially in the form as attached.~~ [ED NOTE: This item was removed at the request of Councilmember Kaplan and placed under regular business.]

4. Motion is to recognize the week of October 12-16, 1998 as Voice of Democracy Week in the City of Des Moines.

5. Motion is to award the contract for providing and installing a new gate security system at the Des Moines Marina in the amount of $44,484, including Washington State sales tax, plus a 10% contingency to Protection Technologies, Inc. and authorize the City Manager to sign the contract substantially in the form as attached.

MOTION was made by Mayor Pro Tem Brazil, seconded by Councilmember Sherman, to approve the Consent Calendar as read.

Consent Item #5 - Councilmember Sherman questioned how long the back up battery will last in the event of a power outage. And if the battery died how would Marina customers get out if they were on the water side of the security gate.

Assistant Harbormaster Jerry Ellingsen advised that he did not know the exact length of time that the batteries could be expected to last. However, he stated that Marina staff would almost always be around to replace or recharge the batteries as needed. He further noted that the security gates always open from the moorage side without a "key". The security feature is designed for the land side of the gate system.

Consent Item #3 - Councilmember Kaplan requested this item be removed.

<u>VOTE ON MOTION</u>: Motion passed unanimously.

<u>AGENDA REVISIONS</u>

Mayor Thomasson announced that he will be taking items out of order on the agenda as there are several items that have been postponed from earlier meetings.

<u>NEW BUSINESS</u>

<u>Transportation Plan Update - Award of Contract</u> (Consent Calendar Item #3)

Councilmember Kaplan expressed concern with a 10% contingency as being too excessive for a plan update. He noted that he can understand this amount of contingency with a construction contract, but not for a consultant.

City Manager Olander explained that these types of contingencies tend to be very low, however, Council or Administration may find alternatives that were not originally covered in the scope of work. The contingency saves staff from having to come to Council every time there may be a minor change in the scope of work to ask for additional funds to cover the extra expense that might be involved in such a change.

Public Works Director Heydon pointed out that each time a consultant comes to Council with plans for approval it costs money. If Council requests modifications or changes to what the consultant presents it generally involves more meetings which in turn costs more money.

<u>MOTION</u> was made by Councilmember Sherman, seconded by Mayor Pro Tem Brazil, to award the contract for the Des Moines Transportation Plan Update to the Transpo Group in the amount of $67,779.00 plus a 10% contingency, and further to authorize the City Manager to sign said contract substantially in the form as attached. Motion passed 5 to 1 with Councilmember Kaplan voting NO.

<u>OLD BUSINESS</u>

<u>Draft Resolution No. 98-217 ***[ASSIGNED RESOLUTION NO. 853]*** Final Plat - Westwood - Continued Review</u>

Senior Planner Ruth noted that Council has been furnished with revised attachments from the September 24, 1998 Council packet. He proceeded to review the revised attachments as follows:

- *Attachment #5 - Draft Resolution No. 98-217*
  - Section 1: Contains Council's Findings of Fact
  - Section 2: Revised park development plan to provide for multi-purpose court
  - Section 3: Final Plat approval

- *Attachment #6 - Plat Map*

- Senior Planner Ruth reviewed the technical changes to the map per Council direction

City Attorney McLean advised Council that there are still some jurisdictional issues to be resolved with the City of Burien. This involves storm drainage issues that are uphill and to the north of this proposed plat. He suggested the following language to be incorporated into the draft resolution:

- Amend Sec. 1, subsection 1, striking the period at the end of the existing language to read as follows:

  ". . .No. 828, except that the City of Burien has yet to sign an indemnity agreement that is consistent with the spirit and intent of Section 2, subsection 9 in City of Des Moines Resolution No. 828 and other findings and conditions contained in the Westwood Preliminary Plat Approvals issued by the City of Des Moines and King County, the predecessor in interest to the City of Burien."

- Amend Sec. 3 as follows:

  "The subdivision and final plat of Westwood-Des Moines is hereby given approval by the Des Moines City Council, subject to the express condition that said approval will automatically become null and void and of no legal effect within sixty (60) days of the effective date of this resolution unless the City of Burien executes an indemnity and maintenance agreement with the City of Des Moines, as required in the preliminary plat approval, in a form that is approved by the Des Moines City Attorney. The subdivision and final plat shall not be recorded until or unless the conditions set forth in this section are satisfied."

With the use of a view foil, Senior Planner Ruth reviewed the plat plan, noting that the applicant is heavily vested in the development with at least 70% of the required improvements complete. He further advised that the applicant has a half million dollar bond on deposit with the City. He concluded that staff is satisfied that applicant has met the criteria required and is recommending approval of the final plat, subject to the interjurisdictional agreement with the City of Burien.

MOTION was made by Councilmember Sheckler, seconded by Mayor Pro Tem Brazil, to approve Draft Resolution No. 98-217, with the amendments as proposed by City Attorney McLean.

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

Upon questioning by Council, Public Works Director Heydon advised that the agreement with Burien is important to ensure that the storm drainage is well maintained. He noted that if Des Moines' staff should have to clean areas within the City of Burien we will have the authority to bill Burien for that work.

Upon questioning by Mayor Thomasson, it was agreed that the 20 foot utility easement overlapping lots 7 and 8 should extend far enough north to service the adjoining Swanson Terrace subdivision. Furthermore, Council determined that the 20 foot sanitary sewer easement which extends along the rear of lots 7, 8 and 9 should also be used for City storm drainage purposes.

Larry Smith, Attorney for Applicant stated that he is comfortable with the changes expressed by Council this evening.

VOTE ON MOTION: Motion passed unanimously.

NEW BUSINESS

Draft Resolution No. 98-159 Request for Waterline Easement - Parkside Wetlands

Senior Planner Ruth explained that the draft resolution would grant an easement in the Parkside Wetland area to Highline Water District to install, perpetually use and maintain a public water pipeline. With the use of a view foil, he showed where the pipeline would cross through the City's property. He concluded by advising that although a small portion of a wetland will be affected, administration believes it is in the best interest of the public to allow the District to improve upon its public water system by granting the requested easement.

Keith Harris, Project Manager for Highline Water District, explained to Council that the District needs to loop its pipeline, that is currently dead-ended on the east side of the wetlands, over to the west to improve the systems conditions. He detailed that this would provide better fire hydrant flow along with improved water quality.

City Manager Olander informed Council that both the Public Works Director and the Park and Recreation Director have reviewed the proposal and see no objections.

Councilmember Sherman questioned why the Water District did not go to the west over to 24th Avenue South.

Mr. Harris replied that this would involve getting permission from private property owners and there is a strong possibility they would object. This would mean the district would have to condemn the property causing hard feelings of citizens which the Water District would like to avoid. He informed Council that the area the pipeline would impact is not really a wetland.

Mayor Thomasson stated that he strongly objects to the Water District utilizing wetlands for this purpose even though he thoroughly understands the need for quality water flow and adequate quantity for fire hydrant flows. He feels the City's first obligation is to protect the wetlands.

MOTION was made by Mayor Pro Tem Brazil, seconded by Councilmember Towe, to approve Draft Resolution No. 98-159.

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

Mayor Pro Tem Brazil commented that he did not believe all options have been explored as pointed out by Councilmember Sherman.

Councilmember Towe expressed agreement with Mayor Thomasson. He pointed out that the City purchased this property to preserve and protect the natural state of this property. He also noted that the City is fighting the expansion of the airport on some of the same environmental issues that would be involved here. He felt that Highline Water District needs to explore other options.

Mayor Thomasson pointed out that the Water District would need a 10 to 20 foot clear buffer zone, which would effect the trees and undergrowth, which clearly could impact the larger wetland area. He noted this land area would be impacted forever.

VOTE ON MOTION: Motion failed unanimously.

8:59 p.m. Mayor Thomasson declared a 10 minute break.

OLD BUSINESS

Draft Ordinance No. 98-219 ***[ASSIGNED ORDINANCE NO. 1220]*** Comprehensive Plan Amendments - 2nd Reading

Mayor Thomasson introduced the topic noting this is a second reading.

City Attorney McLean informed Council that this item was carried to this meeting to provide further opportunity for any additional written comments. He advised Council that none have been received.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Sherman, to approve Draft Ordinance No. 98-219.

Mayor Thomasson commented that these changes do address each and every issue raised by the Growth Management Hearings Board. He complimented staff on a job well done.

Councilmembers Sherman and Towe both commented that they are pleased that the language, especially contained in Attachment A, explicitly states that we are in compliance with State and Federal Laws and integrates the City's authority to review any requests under the City's SEPA authority.

VOTE ON MOTION: Motion passed unanimously.

1999-2004 Capital Improvement Plan - Continued Review

Municipal Capital Improvement

City Manager Olander reminded Council that the CIP is a planning document which authorizes staff to proceed to pursue funding sources and coordinate projects with utilities or other jurisdictions. He further noted that a project must be approved during the appropriate years budget process. The CIP establishes Council's direction and priority of projects.

Councilmember Kaplan stated that he would prefer that the Sports Park Phase I and II be moved two years further out. He stated that the City is considering a bond issue next year for the Senior Center and he feels it would be too much to ask for more bond issues so close together. He does not feel a two year delay will jeopardize the project.

Park and Recreation Director Thorell informed Council that there will be "Seahawk" grant money available in 1999. She stated that it is important to be competitive in seeking this grant to help obtain other funding. She further informed Council that King County is offering a "Dream of Fields" grant money. All this is why the project is placed on such an aggressive schedule.

City Manager Olander acknowledge Councilmember Kaplan's concerns and noted that Council could eliminate or reduce excess levy funds by juggling other projects.

Councilmember Sherman stated he would support a delay in the sport field projects as he believes the Community/Senior Center has a higher priority to the citizens. He noted that Revenue Stabilization funds are low and he is reluctant to commit any City funds at this time.

Mayor Thomasson raised concerns about City staffing with so many large projects, Highway 99 and the sports parks, all lined up in the same year.

City Manager Olander remarked that both the Public Works and Parks departments are aware of the concerns, but still feel the CIP provides a good road map.

Mayor Thomasson requested that staff furnish operating costs to these projects as he has some concerns over whether the City could afford to keep up the maintenance required by the projects.

Councilmember Towe stated he would be adamantly opposed to postponing the community center/senior center or sports park projects. He noted it is vital to move and to take full advantage of leveraging for grant funds. He feels that City staff would not bring a project to the Budget level without having all costs, including operation costs, clearly stated. He further noted that too many other jurisdictions will put issue proposals before the voters and the City needs to compete or lose out altogether.

Councilmember Sheckler expressed agreement with Councilmember Towe.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Sherman, to delay Phase I and II of the sports park by one year. Motion failed 4 to 2 with Councilmembers Kaplan and Sherman voting YES.

NEW BUSINESS

Delivery of 1999 Preliminary Budget

City Manager Olander distributed the 1999 Executive Budget Summary and the 1999 Budget Appendix to Councilmembers. He proceeded in detail to review his Executive letter of transmittal dated October 6, 1998, covering some of the following items:

- Budget total of $34,122,766
- City Council Strategic objectives for 1999-2000
- Community First Initiatives
- 1999 Budget Policy Issues

City Manager Olander concluded his presentation by noting that the City is in a sound financial condition with conservative spending, lean staffing, and solid emergency and equipment services. He advised Council that 1999 preliminary budget policy issue discussion will begin at the October 22, 1998 Council meeting, and that discussion of proposed Surface Water Management rate increases is set for the October 29, 1998 meeting.

Discussion: Commercial Vendors on City Property

City Manager Olander advised Council that the City has received a few complaints from businesses regarding competition from mobile commercial vendors on City property. These mobile vendors have city business licenses. However, the city can restrict or eliminate commercial vendors from city owned property such as parks, marinas, etc., if some kind of permit or vendor policy is adopted. The question to Council is whether or not the city should adopt a system to regulate and restrict mobile vendors on City owned property.

Councilmember Sheckler noted he did not feel it was right that mobile vendors are competing with resident businesses with fixed expenditures. Furthermore he felt many of the vendors were selling questionable items that are not properly regulated. He requested a ordinance be drafted to consider regulating this type of commercial enterprise.

Mayor Pro Tem Brazil concurred with Councilmember Sheckler and added he would prefer to see some level of performance standards adopted in regards to vehicles.

Councilmember Sherman stated he would support legislation regarding mobile vendors. He noted it is unfair for these types of businesses to be able to use City rights-of-way at no charge.

City Manager Olander advised Council that Administration does have the authority to issue licenses, however he would like some policy direction from Council

10:30 p.m. **MOTION** was made by Councilmember Sherman, seconded by Councilmember Kaplan to extend the meeting 10 minutes. Motion passed 4 to 2 with Councilmember Towe and Mayor Pro Tem Brazil voting NO.

After further discussion, staff was directed to prepare draft legislation concerning mobile vendors on City property. It was noted that business license renewals will be due out in December, so City Attorney McLean noted he will try to have something to Council prior to that time.

NEXT MEETING DATE

Mayor Thomasson announced the next regular meeting will be held October 22, 1998.

ADJOURNMENT

The meeting adjourned at 10:37 p.m.

Respectfully submitted,

Denis Staab
City Clerk