

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

October 26, 2006

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

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Dave Kaplan, Ed Pina, Dan Sherman and Susan White. Absent: Councilmember Carmen Scott. Also in attendance were City Manager Tony Piasecki, City Attorney Linda Marousek, Court Administer Jennefer Henson, Planning, Building, and Public Works Director Grant Fredricks, Land Use Planner I Jason Sullivan, City Surface Water Management Engineer Loren Reinhold, and Deputy City Clerk Angela Chaufy.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Pina and passed unanimously to excuse Councilmember Scott from attendance.

BOARD AND COMMITTEE REPORTS

Association of Washington (AWC) Regional Meeting

Councilmember Sherman reported that Stan Finkelstein, Executive Director of AWC, gave a presentation regarding anticipated legislation affecting cities. The Streamline Sales Tax legislation was expected to pass this year. The status of the cities' probation responsibilities was also discussed.

Public Health Board

Councilmember Sherman announced that the West Nile Virus had been found in birds in the northwest. He encouraged the public to take measures to protect themselves from mosquitoes, the carriers of the virus. Councilmember Sherman said that 33rd District Legislator Shay Schul-Berke spoke to the Board. She said that the State Health Committee was seeking additional state funding to address health issues.

Environment Committee

Mayor Pro Tem Thomasson reported that the committee reviewed South West Suburban Sewer District's proposed annexation and recommended approval. The committee also continued study of wetlands and wetland buffers.

PRESIDING OFFICER'S REPORT

Economic Development Committee

Mayor Sheckler announced that the committee would meet tomorrow at 2:00 p.m.

City Manager Review

Mayor Sheckler asked for two Councilmembers to volunteer to serve on the City Manager Review Committee.

Councilmembers Kaplan, Pina, Sherman, and White volunteered.

Mayor Sheckler said that he would contact the interested Councilmembers.

COUNCILMEMBER COMMENTS

Des Moines Farmers Market

Councilmember Kaplan announced that the last Farmers Market of the year would be held. A Chili Cook-off was scheduled for the event.

Discussions Regarding Airports

Councilmember Pina informed Council that he had initiated discussions with Councilmembers from other jurisdictions in order to discuss the benefits of locating an airport near their communities and to encourage them to work with their legislators on the issue.

Washington Trust for Historic Preservation

Councilmember White said that she had attended the Trust's Board of Director's meeting. She said that Initiative 933 was not good for the State and encouraged the public to educate themselves about the issue.

Holocaust Education Center Luncheon

Councilmember White reported that she had attended a benefit luncheon for the Holocaust Education Center. She spoke of the importance of never forgetting the lessons learned from the Holocaust.

Blueberry Lane Agenda Materials

Councilmember White said that the volume of materials provided for the Blueberry Lane Planned Unit Development (PUD) agenda item were extremely overwhelming.

Carpet and Paint for City Hall, Suite A

Councilmember Sherman noted that Suite A's carpet and painting project was complete.

Rental Housing Association Update Periodical

Councilmember Sherman said that, for the last several months, the periodical has written a negative article regarding the City's Crime-Free Housing Program. He voiced support for the program as it has reduced crime and increased livability in the City.

Blueberry Lane Agenda Materials

Councilmember Sherman thanked staff for their thoroughness in preparing the materials for the Blueberry Lane agenda item.

Block Watch

Mayor Pro Tem Thomasson encouraged the public to become involved in a Block Watch program.

City Manager Piasecki said that interested individuals should contact CSO Seaberry at (206) 878-3301 for additional information.

Rental Housing Association Update Periodical

Mayor Sheckler agreed with Councilmember Sherman's comments regarding the Crime-Free Housing program. He thanked staff for initiating the successful program.

ADMINISTRATION REPORTS

City Voice Mail System

City Manager Piasecki announced that the city's voice mail system was down. The new system should be installed and running by the end of next week.

Legislative Appropriation Requests

City Manager Piasecki asked Council and staff to submit their legislative appropriation requests to him. The list of requests should be compiled by the end of the year as the next legislative session begins in January.

Regional Transportation Investment District Letter

City Manager Piasecki asked Council to read the draft letter to the Regional Transportation Investment District (RTID) regarding comments on RTID's "Blueprint for Progress". If there were no changes, the Mayor would sign the letter.

Councilmember Kaplan recommended that a copy of the letter also be sent to the South County Area Transportation Board, the Board's chair Pam Carter, and City of Kent's Mayor Suzette Cooke.

CONSENT CALENDAR was read by Deputy City Clerk Chaufty.

1. Motion is to approve the special minutes of September 30, and regular minutes of October 5, 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.

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 #106291 through #106477 & electronic fund transfers in the total amount of \$461,798.06

Payroll fund transfers in the total amount of \$285,293.15

3. Draft Resolution No. 06-158 [Assigned Res. No. 1017] - Title: A Resolution of the City of Des Moines, Washington relating to public right of way, approving the gift and conveyance of real property by David W. and Theresa A. Gorsvenor to the City of Des Moines and granting authority to the City Manager to accept the property for public right of way, roadway and storm water management purposes.

MOTION is to approve Draft Resolution No. 06-158.

4. ~~Motion is to approve the memorandum of Understanding agreement with the City of Issaquah for jail services and to authorize the City Manager to sign the agreement substantially in the form as submitted.~~

5. Motion is to approve the 2007-2015 Interlocal Agreement between the jurisdictions located within Water Resource Inventory Area 9 for the purpose of sharing the staffing cost for implementing the Salmon Habitat Plan, and authorize the City Manager to sign the agreement substantially in the form as submitted.

6. Draft Resolution No. 05-129 [Assigned Res. No. 1018] - Title: A Resolution of the City of Des Moines, Washington, relating to storm water management, approving the gift and conveyance of real and personal property to the City of Des Moines from Saltwater Highlands

Homeowners Association and granting authority to the City Manager to accept the property for storm water management purposes.

MOTION is to approve Draft Resolution No. 05-129.

7. Motion is to award the contract for professional services for the design and environmental services for the 2006 Landslide Repairs to INCA Engineers, Inc. in the amount of \$106,001.33, plus a 10% contingency, and to authorize the City Manager to sign the contract substantially in the form as submitted.

~~8. Motion is to approve the Interagency Agreement with Highline Community College for support of the Small Business Development Center and authorize the City Manager to sign the agreement substantially in the form as submitted.~~

Councilmember Sherman removed Item No. 4.

Councilmember Kaplan removed Item No. No. 8.

MOTION was made by Councilmember White, seconded by Councilmember Sherman, and passed unanimously to approve the consent calendar as amended.

REMOVED CONSENT CALENDAR ITEMS

Jail Services

In response to Councilmember Sherman's questioning, Court Administrator Henson confirmed that the proposed agreement did not include a minimum bed commitment.

City Attorney Marousek recommended that the language "beyond the minimum beds commitment stated in Section 3.2" be deleted from the end of Section 3.2.

MOTION was made by Councilmember Sherman, seconded by Councilmember Kaplan, and passed unanimously to approve the Memorandum of Understanding agreement with the City of Issaquah for jail services and to authorize the City Manager to sign the agreement with the deletion of "beyond the minimum beds commitment stated in Section 3.2" from the end of Section 3.2.

Interagency Agreement with Highline Community College for the Small Business Development Center

Councilmember Kaplan voiced support for the program but said that he would not vote in favor of agreement due to Council's need to prioritize limited budget dollars.

Councilmember Sherman spoke in favor of the agreement as it was a good way to leverage money with other jurisdictions to assist small businesses.

MOTION was made by Councilmember Sherman and seconded by Councilmember Pina to approve the Interagency Agreement with Highline Community College for support of the Small Business Development Center and to authorize the City Manager to sign the agreement substantially in the form as submitted.

Planning, Building, and Public Works Director Fredricks distributed and highlighted the 2005 statistics for the center.

Councilmember White spoke in favor of the motion and encouraged Council to visit the center.

Mayor Sheckler voiced agreement with Councilmember Kaplan's comments.

VOTE ON MOTION: Motion passed, 4 – 2, with Mayor Sheckler and Councilmember Kaplan opposed.

PUBLIC HEARING

Draft Resolution No. 06-224 Blueberry Lane Planned Unit Development (PUD) Subdivision

Mayor Sheckler asked all speakers to sign in.

City Attorney Marousek administered an oath to all speakers.

Mayor Sheckler read the rules for conducting the public hearing. He noted that the hearing was a quasi-judicial matter and questioned whether the Appearance of Fairness Doctrine applied to any Councilmember.

It did not.

Land Use Planner I Sullivan described the project. He displayed an orthophoto map, zoning map, and preferred land use map of the PUD. The application requests permission to divide five tax parcels consisting of 12.83 acres into 67 single-family residential lots. Mr. Sullivan described the existing site conditions. He reviewed the following deviations requested by the applicant:

Zoning Code Deviations (DMMC 18.08)

- Minimum lot area will be less than 7,200 square feet except for lot 51. The average lot size within the PUD will be 4,065 square feet.
- Reduction in the minimum lot width from 60 feet to a minimum of 40 feet for all lots except lots 1, 9, 50, 51, 58, 59, 60, and 61.
- Reduction in the minimum front yard setback from 20 feet to ten feet for all lots.

Subdivision Code Deviations (DMMC 17.36)

- Lot depth to width ratio will exceed 2:1 ratio for approximately 25% of the lots.
- Corner lot width will be 40 feet rather than 60 feet.
- Private street will serve more than four lots.

Land Use Planner I Sullivan stated staff's recommendation to approve the requested deviations. He said that the PUD was designed to have no impact on public infrastructure.

Mayor Sheckler called for speakers.

SPEAKERS

Tim Hulderman, 1102 Commerce Street, Tacoma, WA

As a professional engineer with Sound Engineering and the engineer for the PUD, Mr. Hulderman said that the collaborative effort of staff and the applicant would result in a nice project for the city. He noted that the integration of the wetland would result in a combination wetland/detention pond facility. Mr. Hulderman noted that the project included approximately

350 square feet of open space, in addition to payment of the full park-in-lieu fees. He informed Council that the PUD process included discussions with the City of SeaTac and the State SR-509 Committee. In closing, he asked Council to support and approve the project.

Phil McCullough, 1932 1st Avenue, Suite 1100, Seattle

As an architect with Hatworth Architecture and Planning and architect for the proposed PUD, Mr. McCullough directed Council's attention to Exhibit 30, a streetscape of the project. He said that the project was designed to present a welcoming picture of Des Moines and provide smaller, more affordable homes, and quality homes.

Richard Williams, 19904 Des Moines Memorial Drive, SeaTac

As builder and developer of the project, Mr. Williams spoke of his concern to build with quality, character, and charm. He noted that the SR-509 issues had been resolved. Mr. Williams felt that his team and staff had worked to design an exceptional project that he, the City, and the homeowners would be proud of.

Jamey Barr, 6911 Park Street East, Fife

Mr. Barr said that he was available to answer any storm drainage design questions.

Mayor Sheckler called for additional speakers three times.

None responded.

Mayor Sheckler questioned whether there were any misstatements of fact staff wished to address.

City Manager Piasecki said that there were no misstatements of facts.

Mayor Sheckler informed Council that Mayor Pro Tem Thomasson and Councilmember Scott had requested additional time to review the documents. He intended to continue the hearing to November 9, 2006.

Councilmember Pina posed the following questions:

1. Who would buy a home in such a noisy area?
2. What assurance did the City have that the homes would not turn into rentals?
3. Why was the zoning reduced to 65% of the Code requirements?

Land Use Planner I Sullivan informed Council that the Port of Seattle had submitted three letters stating that the property was not considered buy-out area. The Port of Seattle Part 150 Study and the noise contour map indicated that the noise levels would be in an acceptable range and staff was requiring additional noise mitigation for the homes. Land Use Planner I Sullivan noted that residential neighborhoods exist to the west and south of the area. In regard to Councilmember Pina's third question, Land Use Planner I Sullivan explained that the homes were clustered to allow more open space. The maximum density was calculated with and without SR-509 and the project met the standard in both instances.

Mayor Sheckler asked that staff show the placement of the PUD on the noise contour map.

In response to Councilmember Pina's second question, Mr. Williams stated that the development was surrounded primarily by owner-occupied single family residences. He said that the overall quality of the homes and the development would encourage ownership. Mr. Williams confirmed that the issue could also be controlled through the homeowner bylaws.

Councilmember Sherman questioned whether an access road counts in the calculation of the number of lots.

Land Use Planner I Sullivan stated that the road area did not count as lot area. He said that there was no definition of density in the Code except for what was provided in the PUD section.

At 9:00 p.m., Mayor Sheckler declared a ten minute break to be followed by a ten minute executive session.

EXECUTIVE SESSION

At 9:10 p.m., City Attorney Marousek announced that Council would convene in executive session for approximately ten minutes. The purpose of the executive session was to discuss with legal counsel representing the City litigation or potential litigation to which the City was, or was likely, to become a party and about which public knowledge regarding the discussion was likely to result in an adverse legal or financial consequence to the City.

Present: Mayor Sheckler, Mayor Pro Tem Thomasson, and Councilmembers Kaplan, Pina, Sherman, and White. Also present were City Manager Piasecki, City Attorney Marousek, and Assistant City Attorney Richard Brown.

No formal action was taken.

At 9:20 p.m., Council reconvened in open session.

PUBLIC HEARING, Continued

Draft Resolution No. 06-224 Blueberry Lane Planned Unit Development (PUD) Subdivision

Mayor Pro Tem Thomasson asked what staff would say if the applicant asked to fill in the center of wetland A.

Land Use Planner I Sullivan said that staff would first need to evaluate the functional value of the wetland. The scenario had not been fully evaluated as it was not part of the project proposal. He explained that the existing proposal was to change the regulatory function of Wetland A to a buffer as that is its historical function. The filling of the buffer area would be mitigated. Land Use Planner I Sullivan confirmed that staff had looked at the possibility of restoring or improving the wetland but the City of SeaTac required the road to go through the lot at the edge of the wetland. In response to questioning from Mayor Pro Tem Thomasson regarding P-4, Land Use Planner I Sullivan explained that no street improvements were proposed in the buffer area. The storm drain was located on the edge of an existing right-of-way and was under the jurisdiction of SeaTac rather than Des Moines.

City Surface Water Management Engineer Reinhold explained that, typically, the City boundary determined the ownership of the infrastructure.

Upon questioning from Mayor Pro Tem Thomasson, Mr. Williams confirmed that he entered into a stipulated agreement with the State in June, 2006.

Mayor Pro Tem Thomasson said that the mitigation agreement and Map P-4 do not match. The calculation of the value of the mitigation should be adjusted to the revised amount of area. Mayor Pro Tem Thomasson said that if the State was going to fill in the wetland, it might not be necessary to save the small area of it.

As water would be coming off roofs rather than through pasture land, Mayor Pro Tem Thomasson questioned what the City's liability would be for flooding. He asked how much of the storm drainage would be directed to the wetland.

Mr. Barr explained that the PUD was designed to emulate existing water flow.

Mr. Hulderman stated that the flow and volume would be the same as currently exists. He said that there should be no flooding as there was an outlet on the north end of the wetland. Mr. Hulderman stated that WSDOT would need to design their facilities to address any needs.

Mayor Pro Tem Thomasson questioned whether the roof drainage system should be public or private.

Mr. Hulderman responded that they were typically privately maintained by a Homeowners Association.

In response to Mayor Pro Tem Thomasson's questioning, Mr. Williams confirmed that it would be acceptable to have a condition stating that the PUD must have a private roof drainage system.

Mr. Hulderman verified that the area for the south easement was also owned by Mr. Williams.

Mayor Pro Tem Thomasson questioned whether public drainage from South 192nd Street should be sent to the roof drainage system as it would be a private drainage system. He also asked if the public water should receive any kind of treatment.

City Surface Water Management Engineer Reinhold said that he would study the issue.

Mayor Pro Tem Thomasson requested a statement from the City of SeaTac confirming that a pipe in the Des Moines Memorial Drive right-of-way would be their property. He asked the following questions:

- If the City of SeaTac improved Des Moines Memorial Drive further south and extended their storm drain system, what impacts to the Des Moines' pond could be expected?
- What is the City Surface Water Management Engineer's opinion regarding the layout of the pond discharge that ends at the toe of the State's fill?
- Would any resulting problems be the State or the City's responsibility?
- Should the discharge be piped to a downstream conveyance system rather than directing it to a wetland that will be filled by the State?

City Surface Water Management Engineer said he would look into the issues.

Mr. Hulderman noted that, by law, a natural discharge point cannot be diverted into another basin. It will be an issue the state will need to deal with when they do their project.

Mr. Pina said that he would prefer for the applicant to buy the wetlands.

Mayor Pro Tem Thomasson stated his belief that the project would increase flow as the roof drainage system would cause a much faster rate of flow.

City Surface Water Management Engineer Reinhold confirmed that staff had studied the issue. Theoretically, the roof drainage should balance and match the hydraulic function of the wetland.

Mayor Pro Tem Thomasson asked if any side yard changes were requested and if staff had evaluated each lot individually. He noted that the map showed no side yards for Lot 49 and 50.

City Attorney Marousek said that case law stated that, unless the ordinance states that a map was for illustrative purposes only, the map would govern.

Land Use Planner I Sullivan noted that the PUD map clearly states that the map is for illustrative purposes only.

After discussion regarding setback requirements, City Manager Piasecki said that staff would review the language in DMMC 18.52.100(2). He also said that the maps would be clearly marked as "for illustrative purposes only".

MOTION was made by Mayor Sheckler, seconded by Mayor Pro Tem Thomasson and passed unanimously to continue the hearing to November 9, 2006.

NEXT MEETING DATE - Study Session November 2, 2006

ADJOURNMENT

At 10:27 p.m., **motion** was made by Councilmember White and seconded by Councilmember Pina to adjourn the meeting. **VOTE ON MOTION:** Motion passed, 5 – 1, with Councilmember Kaplan opposed.

Respectfully submitted,

Angela M. Chaufy
Deputy City Clerk

ACTION ITEMS FROM 10/26/06 COUNCIL MEETING

- Copy RTID letter to additional parties.
- Show the placement of the PUD on the noise contour map.
- Perform additional study of surface water management and wetland issues.
- Review the language in DMMC 18.52.100(2) and review setback requirements.