

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

August 16, 2007

CALL TO ORDER - The regular meeting of the Des Moines City Council was called to order at 7:33 p.m. by Mayor Sheckler at the City of Des Moines Council Chambers, 21630 11th Avenue South, Des Moines, WA.

ALLEGIANCE - The pledge was lead by Councilmember Ed Pina.

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Ed Pina, Carmen Scott, Dan Sherman, and Dave Kaplan. Councilmember Susan White was attending a meeting elsewhere, but had informed the Mayor she would be arriving. Also attending were Planning, Building and Public Works Director, Grant Fredricks, filling in as Acting City Manager in City Manager Tony Piasecki's absence, City Attorney Pat Bosmans, and City Council Clerk Tina McVey.

BOARD & COMMITTEE REPORTS & COUNCILMEMBER COMMENTS

Councilmember Scott: Spent much of the week working on some historic projects, such as the Legacy Foundation projects, preparing for the upcoming Municipal Facilities Committee meeting, as well as being involved in several other items.

Councilmember Pina: August Suburban Cities Association's Public Issues Committee meetings were cancelled, but he sent an email which stated the City Council's position that he asked to be distributed. He also stated the LEOFF Committee was still in need of a civilian member to complete the committee's roster.

Councilmember Sherman: Human Services Committee met to go over the budget items that would be brought later before the Council. He also stated that there would be a consent item added to a future agenda which would allow the Committee to re-distribute funding which was granted to a now defunct agency to agencies that had initially asked for more funding in the 2007 budget. He also stated the Municipal Facilities Meeting would be held the following day and that items for discussion will include changes to the Marina Master Plan such as modifications to the bulkheads/retaining wall, the next phase that would be going on in front of the Harbormaster's office, and what the state agencies will be allowing the City to do in the rebuilding/restructuring of the area.

Mayor Pro Tem Thomasson: Environment Committee met and spent most of the time looking at the operating budget for Surface Water Management and the Capital Budget in order to have it ready for budget talks before the Council at a later date. He also stated he had asked Director Fredricks to provide an update on the opening of the Mount Rainier High School. He stated that after the problems with the Olympic High School opening last year, the Council needed to know if there would be the same problems with this opening.

PRESIDING OFFICER'S REPORT

Mayor Sheckler declined to speak, offering the time instead to Director Fredricks as Acting City Manager to provide the update regarding the High School. Director Fredricks then introduced City Building Official Lawrence Pickard to present the update on not just the Mount Rainier High School opening, but also the opening of the Aviation High School which would be located at Olympic High School and the other school projects which the Department was involved.

Mr. Pickard stated that the staff had put forth a great deal of effort working with the contractors and the school officials to make sure that Mount Rainier and Aviation High Schools would indeed be ready to open by the September 5th date. He stated the final inspections were being done on a 'grid' process, with certain sections of the school having more priority over others to be inspected and finalized first. There will still be work going on in some of the areas which had been deemed low priority, but the Building Division staff was spending most of each workday out there on site to assist the contractors with having as much done prior to opening as possible. Mr. Pickard also stated that he had spoken to Mr. Biesold and that a working and approved sprinkler system was installed in the school and would not be problematic. In response to questions from the Council, Mr. Pickard stated the Administrative areas where teachers would normally be reporting earlier than the students has been finalized and approved ok for use, while the gym and football areas have been considered least important and will probably not be completely ready by the time school started.

In regard to the new project of the construction of Pacific Middle School, the portables which have been on the property for 23 years as 'temporary' classrooms will finally be moved completely off property when construction has been completed and finalized given for use.

In regard to Aviation High School, the Building Division had approved the permits for the construction in May, but have only recently been picked up by the contractors. Staff is working diligently and constantly with contractors at the site in order to make sure that the school will open on time.

ADMINISTRATIVE REPORTS

Director Fredricks stated that with the proceeds received today from the contractors performing the work on the various school projects was the highest permit fee total for any one day taken in by the Building Division. He also stated the Marine Science project in the Marina area in Redondo started this morning and in response to Mayor Pro Tem Thomasson's question stated the parking issue would be addressed and resolved before the school received a Certificate of Occupancy.

Councilmember White remarked that she had received numerous complaints regarding the inability of people to reach the marina due to the construction and related parking problems. It was her concerns that since there were still two weeks left in the fishing season, the number of complaints would only escalate. Councilmember Scott stated she had been in the area on personal business and that the building is wrapped in order to be ecologically sound. Councilmember Scott asked if City Building Official Pickard had any comments and he stated that the contractors were indeed being very careful with the materials, including having a boat down below the construction area should anything fall into the water. He also stated, in regard to Councilmember White's comments, that the problems associated with people trying to get their boats in to the water was why the contractor would not be working the following weekend.

Director Fredricks stated that he had signed that day on the behalf of the City Manager the permit repairs contract for Saltwater Bridge. The contractor is in the process of assembling the steel according to federal rules, so the citizens in the lower Woodmont area will finally start to see some construction begin on the bridge.

Director Fredricks then turned the floor over to City Attorney, Pat Bosmans, for an update regarding the Public Records lawsuit filed against the City by the Rental Housing Association. City Attorney Pat Bosmans stated the City had been represented by Jeff Myers of Law, Lyman, Daniel, Kamerrer & Bogdanovich. She stated he had moved for summary judgment asserting the statute of limitations had expired and the Court agreed, dismissing the lawsuit.

CONSENT CALENDAR was read by City Council Clerk Tina McVey.

1. Motion is to approve the regular minutes of June 14, and the regular and special minutes of July 26, 2007.

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 #110125 through #110370 & electronic fund transfers in the total amount of \$1,685,463.14

Payroll fund transfers in the total amount of \$338,066.19

3. Motion is to authorize the City Manager to sign the \$75,000 contract amendment with ClearPath, LLC for real estate and economic development consultant services for the Des Moines Creek Business Park Project proposals, substantially in the form as submitted, and to direct the Finance Director to include funds for this contract in the next budget amendment.

4. ~~Motion is to grant Puget Sound Energy a non-exclusive utility easement for gas service within Des Moines Beach Park for the Auditorium and Sun Home Lodge as submitted in Attachment 2.~~ (removed by Mayor Pro Tem Thomasson)

5. ~~Motion is to approve the contract for Architectural & Engineering Services between the City of Des Moines and BOLA Corporation for rehabilitation of Des Moines Beach Park historic buildings in the amount of \$253,447, plus a 10% contingency and authorize the City Manager to sign the Agreement substantially in the form as submitted.~~ (removed by Mayor Pro Tem Thomasson)

➤ Motion was made by Councilmember Sherman and seconded by Councilmember White, to approve the Consent Calendar as amended. Motion passed unanimously.

REMOVED CONSENT ITEMS

Item #3 – Granting Puget Sound Energy a non exclusive utility easement for gas service within Des Moines Beach Park for the Auditorium and Sun Home Lodge.

Discussion began with Mayor Pro Tem Thomasson voicing his concerns regarding the City granting PSE a non exclusive easement as he believed the language gave PSE the right to dig anywhere and to run utility lines anywhere PSE wanted without the City being able to stop them. He stated he had requested that Staff provide a legal description for tonight's meeting. Director Fredricks stated that he had spoken with City Attorney Bosmans regarding the matter and since PSE had not yet finished their design and that part of the design depends upon the width and depth of the needed dredging, we could not yet develop an accurate legal description at this time. He further stated that Staff was confident regarding the location of the beginning of the pipe, and also that Staff knew it would extend behind the shelter on the north side of the creek and continuing to a point under the bridge, then turn south under the creek, and lastly over to a point between the Sun Home Lodge and the Auditorium, where it will terminate. However, since the exact locations of the route are known, it is not possible to provide a legal

description at this time. Mayor Pro Tem Thomasson asked if we could give them the easement after this was built and Director Fredricks stated the utility required the granting of the easement before building. Director Fredricks stated that the City could, at its expense, hire a surveyor and from that develop a legal description. Mayor Pro Tem Thomasson stated that he wanted the language in the motion to be more narrow and specific in scope, as it was his opinion that the current language gave the utility permission to do what they wanted.

At this time, Director Fredricks introduced Capital Improvement Project Manager, Scott Romano, to provide further explanation regarding the project. Mr. Romano stated that the utility had been very cooperative and that the area under consideration had been capped for 20 years. He further stated that PSE had, at their expense, bored for the pipe and found its location. It was his belief that the utility would not allow any one but the City to tie into the pipe system and that the utility had saved the City the money and expense of digging up quite a bit of the property to conduct its own search for the pipe. Mayor Pro Tem Thomasson stated the easement encumbered and clouded the entire title and felt it was too broad. Director Fredricks inquired as to whether it would be acceptable if staff came back with an amended easement once the project was built. Mayor Pro Tem Thomasson stated that it would be acceptable.

Councilmember Scott inquired as to the location of the drawn line of the pipe route and whether Midway Sewer would be digging up any of the blacktop area which would then be patched up and reopened by PSE later. Mr. Romano stated PSE would be performing directional boring and not open trench digging. Councilmember Scott then asked if it could be fastened to the downside of the bridge and not cut across the beach. Mr. Romano stated that he was not an environmental scientist, but that he understood that the old line which used to be under the Lodge used to be under the creek and PSE could state they were maintaining the prior system, and that to move in a different direction would cost a lot of money regarding the environmental permitting. She then asked if it was possible to get this done during the fish window this season and Mr. Romano stated that it was possible if the creek could be dredged soon and the depth needed measured. He also stated that the gas line would not interfere with the fish window because it was below the creek.

Councilmember Pina suggested that the language be changed to reflect that the utility could use the land on 5 feet on either side of the existing service to eliminate the Council's concerns. Councilmember Kaplan stated his interest in making the same change to the easement language. Mr. Romano stated that the utility was unsure as to whether they could follow the old line's route without finishing the design. Councilmember White stated that it was her belief that the City could not narrow the language without knowing where the service needed to be placed.

Mayor Pro Tem Thomasson asked City Attorney Bosmans what would be of best interest to the City regarding this easement. City Attorney Bosmans stated that it would be of best interest and benefit to City to approve the easement tonight so the legal language would at least be in place and provide the City a platform from which to work.

➤ Councilmember White made the motion to grant Puget Sound Energy a non-exclusive utility easement for gas service within Des Moines Beach Park for the Auditorium and Sun Home Lodge as submitted in Attachment 2 with an amended easement to be provided with a corrected legal description with Mayor Pro Tem Thomasson seconding. Motion passed unanimously.

Item #5 - Motion is to approve the contract for Architectural & Engineering Services between the City of Des Moines and BOLA Corporation for rehabilitation of Des Moines Beach Park historic buildings in

the amount of \$253,447, plus a 10% contingency and authorize the City Manager to sign the Agreement substantially in the form as submitted.

Discussion began with Mayor Pro Tem Thomasson stating that he had two main issues with the motion: (1) the lack of time given to the City Council to have appropriate opportunity to view and discuss scopes of the various construction projects involved, and (2) budget concerns regarding an additional \$300,000 which did not appear to be allocated in the budget documentation.

Parks, Recreation, and Senior Services Director Patrice Thorell explained regarding the budget notation that the left column on page 8 of the handout provided to Council showed a total comprised of a combination of the 2007 and 2008 budgets. Councilmember Kaplan stated that the totals provided do not match the Funding Sources left hand column. Director Thorell stated that she would be handing out an amended 2008 budget document in the upcoming Municipal Facilities Committee meeting which would reconcile the differences in numbers. Mayor Sheckler suggested as this was going to be discussed in the soon upcoming meeting that this consent item be remanded back to committee for further review.

➤ Mayor Pro Tem Thomasson made the motion to pull this item from the Council meeting's agenda and remand it committee for further review with Councilmember White seconding the motion. After further discussion by Councilmembers in support of the motion, it passed unanimously.

OLD BUSINESS

Draft Ordinance No. 07-096 Council Compensation

SUMMARY: At the Council meeting of August 2nd the Council voted to suspend the rules to enact draft Ordinance No. 07-096 on the first reading, the Council should now act to vote on draft Ordinance No. 07-096.

City Attorney Bosmans stated this was brought back before the Council as there was no vote on the main motion at the last meeting, with only the motion to suspend the rules having received votes.

➤ Councilmember Sherman made the motion to amend the main motion to add "or when the General Fund is balanced without the use of one time revenues as certified by the Finance Director and confirmed by resolution of the City Council, whichever is later" after the phrase "as of January 1, 2010." Motion failed 2-5 with Councilmembers Sherman and Kaplan voting Yea and all other Councilmembers voting Nay.

Mayor Pro Tem Thomasson pointed out that on Page 2 of the Ordinance, the language in (2) should be amended to read "...the Councilmember elected Mayor or the Presiding Officer shall receive as compensation..." The original maker and second of the main motion, Councilmembers Kaplan and Pina agreed to add that language to the original motion.

➤ As the original Motion was made at the last Council meeting and was needed only to be voted upon, it was not necessary to have the motion remade and seconded. Motion passed 5-2 with Councilmembers Sherman and Kaplan voting Nay and all others voting Yea.

NEW BUSINESS

Vision 2040 Briefing by Puget Sound Regional Council

SUMMARY: The purpose of this agenda item is to hear a briefing by Puget Sound Regional Council on the Draft VISION 2040 Plan and Supplemental Draft EIS, and to direct staff in preparing a comment letter on the Draft VISION 2040 Plan and Supplement Draft EIS.

Planning Manager Lathrop introduced the video prepared and sent to the Council by Puget Sound Regional Council Chairperson, Mike Lonergan. Ms. Lathrop provided a background of the PSRC's methodology in putting together the vision and scope for the project and also the credentials of Mr. Longergan, who was the Mayor of the City of Tacoma.

After the presentation, Mayor Sheckler excused himself from the meeting and Mayor Pro Tem Thomasson became the Presiding Officer in his absence.

Mayor Pro Tem Thomasson inquired as to whether the Council's letter to the PSRC was well received or were there other issues that needed to be considered. He expressed concern with were being forced into policies which grouped smaller cities with larger cities and how the document seemed to contain a lot of "musts" and "shalls". Manager Lathrop stated that she had not yet had time to thoroughly go through the packet but that she believed smaller cities like Des Moines were grouped with the larger metropolitan areas. Ms. Lathrop then provided Councilmembers with a packet of information prior to starting the video presentation which would outline and provide more in depth information than what would be viewed during the presentation. For further questions, Manager Lathrop introduced the PSRC's representative, Assistant Planner Yorik Stevens-Wajda.

Mr. Stevens-Wajda responded by stating that a lot of other cities and the policy board itself did take out a lot of more restrictive the "musts" and "shalls", but instead decided to include more guidelines and "shoulds". He stated that it also included "should avoids" such as avoiding creating a fully contained community. He stated the definition of a "fully contained community" is a Growth Management Act provision where a community is created that is fully sustainable within the community; jobs, housing, etc. The policy board felt this was not appropriate for this area. Mayor Pro Tem Thomasson then inquired as to the process itself and how the City of Des Moines' opinions were going to be included in that process. Mr. Stevens-Wajda stated that the votes were weighted according to the size of each city but that each city would be represented at the General Assembly when decisions were made. He further stated that it was not a veto type of vote, but he believed that it took 75% to ratify.

Councilmember Sherman inquired as to why there was no growth target established for the City of Des Moines in the packet, with Mr. Stevens-Wajda responding by stating that instead of listing individual cities, the graphs were of regional geographies within an area. There are five regional geographies and within those classifications, then the counties are noted. He further stated that it was possible that the larger cities in the region would fill the growth target percentage, rather than expect smaller cities like Des Moines that are almost completely built out to be able to meet the targets.

After much further discussion on the subject between Mr. Stevens-Wajda and the Council, Councilmember Kaplan asked how transportation fit into the new 2040 as opposed to what was addressed in Destination 2030. Mr. Stevens-Wajda stated that the connecting of regional growth centers targeted in Destination 2030 is also a focus of 2040. Councilmember Kaplan expressed concern that there were no major changes from 2030 to 2040 regarding air transportation and other types of transportations which impact the region.

Councilmember White expressed her support of the other Councilmembers' concerns and stated that when the Council returns their comments to the PSRC, these are issues which should be addressed

because this has a great impact upon our area. She emphasized her concern that the City would not be able to meet the “affordable housing” requirements listed as there are no real definitions of it anywhere.

Councilmember Pina stated he supported the comments and concerns of the other Councilmembers. He stated that the City was struggling just to take care of current City needs and that kind of growth expectation would mean that tearing down homes to build condos.

After much further discussion regarding the subject, the Council informally agreed to have Planning Manager Lathrop draft a letter to the PSRC which would express the Council’s comments and feelings.

OLD BUSINESS ITEM #2

Zoning Code Work Package #1

SUMMARY: The purpose of this agenda item is to discuss with Council the proposed text amendments for the Division 1: Administration and Enforcement section of the Zoning Code update.

Planning Manager Lathrop began the presentation by providing the Council with a brief history and background of the project, summarizing Staff’s considerations for the changes in formatting; updating and revising zoning code text, simplifying and reorganizing the zoning code to a user-friendly format, adding more flexibility for decision-making. She further stated that this project would be presented to the Council in a series of work packets. She also stated that these would be meetings where Staff would be presenting this information to obtain Council’s thought and wishes, which would then be incorporated into the packets and the final document would be presented to the Council for approval once all the packets had been reviewed by Council.

Councilmember Kaplan asked if the information brought before Council tonight was to discuss format changes, content changes, or both. Manager Lathrop stated that tonight’s presentation would focus on formatting changes with the content changes to be provided in each work packet.

Councilmembers agreed that this would indeed be the best way to work through the subject, including the possibility of setting a retreat day where this would be the single subject of discussion. Councilmembers also provided a partial listing of issues which they wished to have addressed during these meetings: definitions in their entirety but specifically the definition of an awning, whether or not the owner of a bed and breakfast has to live on the property, and does the City have to use NAICS definitions or can the City modify/create their own definition. Councilmembers also requested that Staff provide charts and/or tables to help Council make informed decisions. Manager Lathrop stated that it would be more consistent to use NAICS definitions whenever possible and that the definitions changes/insertions that Staff recommended came about after lengthy research into what definitions other districts and cities use. Councilmembers requested a weblink to NAICS definitions in order to help with understanding what the definitions actually are for those items which use NAICS as a reference.

Director Fredricks requested that when Council emailed questions or had comments regarding the work packets that they not copy each other so as to not appear to be a virtual City Council meeting, which would not be legal. He then summarized Council’s comments to verify that Staff would provide Council with an ‘assignment’ to have comments back to Staff by August 24th. Staff would also modify the review schedule to create a more manageable set of assignments for Council. Council agreed that this was indeed what was wanted, as well as scheduling Saturday work sessions for this purpose.

Director Fredricks then asked permission to address the Council regarding a different topic before adjournment and permission was granted. He stated Councilmembers asked during the break if Administration could provide legal advice regarding a pending PUD, Granville Southern, which had been the topic of a Public Meeting. He asked if City Attorney Bosmans would provide that direction. She stated the RCW regarding public information and advised that based on the RCW that they could not discuss the subject as it could be considered an ex-parte discussion and could jeopardize the Councilmember's ability to vote on the subject.

Council then recognized Tina McVey for her assistance with City Council meetings in the absence of the City Clerk as she was leaving the City for a position at Seattle University.

➤ Motion was made by Councilmember Kaplan to adjourn with Councilmember White seconding.
Motion passed unanimously.

NEXT MEETING DATE - Study Session September 6, 2007.

ADJOURNMENT

At 10:24 p.m., the meeting adjourned.

Respectfully submitted,

Tina R McVey
Permit Technician II
Planning Building and Public Works