

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

February 14, 2008

At 7:31 City Manager Piasecki announced the meeting will start in approximately 5 minutes.

The regular meeting of the Des Moines City Council was called to order at 7:38 p.m. by Mayor Sheckler in the Council Chambers, 21630 11th Avenue South, #B.

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

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Dan Sherman, Councilmembers Dave Kaplan, Carmen Scott, Scott Thomasson and Susan White. Absent: Councilmember Ed Pina. Also in attendance were City Manager Tony Piasecki, City Attorney Pat Bosmans, Planning, Building and Public Works Director Fredricks, Development Services Manager Robert Ruth, Land Use Planner Jason Sullivan, Transportation Engineer Dan Brewer, Police Commander John O'Leary and City Clerk Denis Staab.

MOTION was made by Councilmember White, seconded by Councilmember Kaplan and passed unanimously, to excuse Councilmember Pina.

COMMENTS FROM THE PUBLIC

Jane Ipsen, 23660 Marine View Drive (Representing Des Moines Rotary)

Ms. Ipsen informed Council that the 2008 Poverty Bay Wine Festival will be held at Landmark on the Sound this year, due to the Beach Park Auditorium being unusable. She noted they would like to use the South end of the Marina to provide shuttle buses to the Festival and requested Council approve the draft Resolution on tonight's Consent Calendar which would authorize such use. She advised that this is the 50th Anniversary of the Des Moines Rotary which has raised \$1 million dollars for community and international charities. She stated this year Rotary is pledging donation support from the Festival for the Field House Park to help provide any additional funding needed to preserve this historical site. In conclusion, she thanked Council for previous support and encouraged everyone to attend this year's Wine Festival.

Earline Byers, 22315 6th Avenue South

Ms. Byers informed Council she enjoyed meeting JP Patches last night at the Des Moines Historical Society meeting and stated everyone had a wonderful time. She thanked Council for support of the Historical Society.

As a representative of the Greater Des Moines Association of Condominium Residents she presented Council with a petition regarding concerns and issues with the Des Moines Marina Update Plan, requesting the Council:

1. Not approve any building or leasing of Des Moines Marina property to any additional eateries, and
2. Not shut down the Public Boat Launch.

She informed Council that the petition contains 637 individual signatures and more may be coming.

Bridget Barrett, 2414 South 208th Street, SeaTac

Ms. Barret requested information as to when South 208th Street will be widened.

Mayor Sheckler informed Ms. Barret that this street is located in the City of SeaTac and noted City staff will provide information on who she should contact.

BOARD & COMMITTEE REPORTS & COUNCILMEMBER COMMENTS

Municipal Facilities Committee

Referencing comments from the public concerning the sling launch at the Marina, Councilmember Scott advised that the Committee may be recommending the Phase B of the Bulkhead Replacement project to be done first. She noted this would be at the Harbormaster's office and southward due to the fact that if there were an earthquake this would be the more endangered part of the bulkhead area. If the Council as a whole agrees with that, it would mean the sling launch area would not be impacted as soon as it would have been if Phase A was done first. She felt this would allow more time before anything eminent happens to the sling launch.

Historical Society Meeting

Councilmember Scott reported attending the meeting last night, along with a standing room only crowd, who were thoroughly entertained by "J. P. Patches".

Arts Commission

Councilmember Scott reported the Arts Commission just had their second Waterland Music Series Event this week, which was held at Highline College. She announced there will be another program in the series which is well worth attending.

Finance & Economic Development Committee

Councilmember Thomasson noted that he and Councilmember Scott and Mayor Sheckler attended a meeting with the City of Kent's comparable Council Committee to discuss the proposed study in the Midway sub-area. It started with a briefing by staff and ended with the combined 6 Councilmembers exchanging ideas concerning:

- What should the study area be
- What might be the mission

He noted they did not complete a mission goal. Another meeting has been scheduled for Wednesday, February 20th at 5:30 p.m. at Highline Community College.

Police Department and Fire District Fundraiser

Councilmember Thomasson reported the Police and Fire Departments held a fund raiser basketball game at Mt. Rainier High School for the organization 'Gloria's Angels'. He wished to recognize them for their efforts for the community.

Arts Commission

As Council Liaison to the Arts Commission, Councilmember White reported attending a meeting yesterday. She advised that the group is working hard and bringing many wonderful items of art and culture into the community. She noted the upcoming events:

- Mural sneak presentation on April 11th
- Week-end event with artist Dan Swalberg

Highline Community College - Marine Science Technology Center

Councilmember White announced that the Center will be open very soon and will have the 3rd largest aquarium in the State, and noted it will be beautiful facility. However, she expressed concerns about the impacts this will have on the lack of parking in the Redondo area.

Washington State Department of Corrections

Councilmember White expressed appreciation of the work the workers from the corrections department are doing in helping to work on City parks and facilities landscaping. She noted they have made Wooton Park "sparkle" in clearing brush that had been hampering views of Puget Sound. She offered her support in continuing this worth while program and thanked Parks and Recreation Director Thorell in her hard work in coordinating efforts to keep our Parks and grounds looking really nice.

Arts Commission - Mural Dedication

Upon questioning by Mayor Pro Tem Sherman, it was noted the official dedication of the Commission's Mural will be on the opening day of the Farmer's Market on June 7th.

State Auditor's Exit Interview

Mayor Pro Tem Sherman advised that he and other Councilmembers were briefed by the State Auditor's for the 2006 exit interview that was held recently.

Senior Shuttle 10th Anniversary

Mayor Pro Tem Sherman reported attending the anniversary luncheon held at the Des Moines Senior Center. He advised this has been a very successful program.

Municipal Facilities Committee

Mayor Pro Tem Sherman stated the Committee met last week, which included a large number of citizens who wanted to listen in. Discussion included potentially getting a professional consultant to help prepare a request for proposal for a restaurant at the Marina, including flexibility in location that could include the old 'Quartermaster' site and/or an attached sundries shop. He noted they still wish to pursue a marine hardware store, so proposals will also be requested for that. Another priority was to move on a new contract and enlargement of the boat yard with CSR. He requested and received confirmation from Councilmembers for the Committee to move forward with the items as stated.

He confirmed Councilmember Scott's earlier statement that most likely the Committee will recommend beginning the Phase B Bulkhead work first. He also noted that Council has given direction to Administration regarding raising launcher rates anywhere between \$40 to \$70, assuming no decrease in the amount of launches.

PRESIDING OFFICER'S REPORT

Consent Item #9

Mayor Sheckler requested the City Clerk fill in the blank on Consent Item #9 with Councilmembers Ed Pina and Carmen Scott.

ADMINISTRATION REPORTS

Marine View Drive Message Board

City Manager Piasecki noted the City has installed message boards regarding the work that will be done along Des Moines Memorial Drive. There are 2 slides sloughing off the area just off the roadway down into the Des Moines Creek Ravine. He advised the project is finally funded, bid, and the contractor is ready to start the work on those two, plus a small slide of the northwest corner of the Marine View Drive bridge. The project is expected to last about 75 days and there will be traffic disruptions, sometimes closure of lanes, so we ask everyone to bear with us during the project.

Auditor's Exit Conference

City Manager Piasecki reported the conference was held last week for the 2006 financials and unfortunately this year the City did have a Finding. He explained a Finding, in the Auditor's opinion, a major issue we need to work on. He noted the Finding is one staff is aware of and it really comes down to having the staff resources do things when it comes to preparing the financial statements. He stated financials should be prepared by one or a number of staff people and then reviewed by the Finance Director. However, we have a severe staff shortage in our Finance Department, he reported the Finance Director is doing most of the work. The Auditor has noted this year-in and year-out, suggesting we apply more resources to the Finance Department, which we have done, but still in 2006 our Finance Director did most of the work and the Auditor decided to make it a Finding. The examples of the issues that could happen when you have somebody doing so much are so inconsequential, that staff is going to be asking the Auditor to remove those. He advised that the bottom line is our financials got a clean bill of health, everything is in order and reported property, money that came in and went out is accounted for.

Assistant City Manager Search

City Manager Piasecki advised that the search is moving forward and a brochure describing the "job specs" is ready and within a week or so we should be out with an ad for the position.

Consent Calendar Item #8

City Manager Piasecki announced that the City received the last Grant of \$75,000 for the Field House Park, so the project is now fully funded.

Consent Calendar Item #5

City Manager Piasecki advised that the Council does not normally get involved in Short Plats, however because this one has a deviation from one of the requirements for lots (the depth/width ratio) the Code says that the Council has to concur with Administration's decision to approve the short plat with the modification. He noted the original motion in Council's packet was incorrect, so when the City Clerk reads the consent calendar she will read a motion that essentially says: "the Council is approving Administration's decision to approve the whole plat with deviation". He stated if Council does not want to do that, it can be pulled from the Consent Calendar, but the only other decision Council can make tonight would be to put it on a future agenda for discussion.

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the special and regular minutes of January 24, 2008.
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 #112810 through #113141 & electronic fund transfers in the total amount of \$1,488,010.92

Payroll fund transfers in the total amount of \$330,078.97

3. Motion is to approve the agreement with Washington State Parks and Recreation Commission for the receipt of grant funds to purchase a new boat sewage pump for the Marina.

~~4. TWO MOTIONS:~~

~~**Motion is to authorize a change order to the construction contract with Lakeside Industries for the 2007 Pavement Management Program in the amount of \$117,431.00 and to authorize the City Manager to sign said change order, plus authorize the City Manager or his designee to approve change orders up to an amount of 10% over the amount.**~~

~~**Motion is to supplement the current contract for professional engineering services for the 2007 Arterial Maintenance Program with KPG to include construction management services for this change order in the amount of \$6,500.00 bringing the total to \$177,659.83, plus authorize the City Manager or his designee to approve change orders up to an amount of 10% of the supplemented amount.**~~ [Item removed by Councilmember Thomasson.]

5. Motion is that the City Council concurs with the Administration's decision to approve the preliminary modified 3 lot short subdivision entitled "Ho Short Plat", City File No. LUA07-021 including the deviation to the lot width to depth ratio requirement for the proposed lot 2.

6. Draft Resolution No. 08-041 [**ASSIGNED RES. NO. 1063**] - Title: A Resolution of the City Council of the City of Des Moines, Washington, authorizing the Rotary Club of Des Moines ("Rotary Club") to provide parking for its 2008 Poverty Bay Wine Festival ("Festival") at the Marina and listing conditions under which such permission is granted.

MOTION is to approve Draft Resolution No. 08-041.

7. Motion is to approve the contract agreement for Public Defender and authorize the City Manager to sign the agreement substantially in the form as submitted.

~~**Motion is to award the Consultant Agreement for landscape design services for Des Moines Field House Park to Robert W. Droll, Landscape Architect, PS in the amount of \$42,170.00 plus a 10% contingency, and to authorize the City Manager to sign the contract substantially in the form as submitted.**~~ [Item removed by Councilmember Thomasson.]

~~**Motion is to authorize payment of travel expenses of approximately \$1,700 each for Councilmembers Carmen Scott and Ed Pina to meet with Washington State's Congressional delegation in Washington, DC, in February 2008, for the purpose of requesting funds for Des Moines projects and priorities.**~~ [Item removed by Councilmember Scott.]

Councilmember Thomasson requested Consent Items #4 and #8 be removed for further discussion.

Councilmember Scott requested Consent Item #9 be removed for further discussion.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sherman and passed unanimously, to approve the Consent Calendar as amended.

REMOVED CONSENT ITEMS

Consent Item #4 - Contract for 2007 Pavement Management Program and 2007 Arterial Maintenance Program

Councilmember Thomasson noted that the Pavement Management Program motion refers to improvements on Des Moines Memorial Drive and felt the motion is not very descriptive of what he thinks the action is intended to be. He felt it is unclear, if this motion passes, of what would be the total contract amount. He noted that Council had already made a motion to approve \$100,000 and the way he reads this motion is that it is \$117,000, in addition to the original \$100,000.

Transportation Engineer Brewer advised that the last motion (on 12/13/07) Council approved a change order up to \$100,000. He noted as staff began to do some of the field work it became clear that was not going to be sufficient to accommodate that work. Therefore, this new motion basically replaces what was done before.

Councilmember Thomasson stated then the motion needs to clearly state it is rescinding the previous motion. In regards to the second motion, he felt it is okay because it does talk about the changed amount and then includes the total, so you can keep track of the changes.

MOTION was made by Councilmember Thomasson, seconded by Councilmember White, to supersede the prior action of the Council on December 13, 2007, in approving a contract to Lakeside Industries in the amount of \$100,000 and move to authorize a change order to the construction contract with Lakeside Industries for the 2007 Pavement Management Program in the amount of \$117,431.00 for paving work on Des Moines Memorial Drive from 208th to 212th and to authorize the City Manager to sign said change order, plus authorize the City Manager or his designee to approve change orders up to an amount of 10% over the amount. Motion passed 5 to 0 with Councilmember Kaplan abstaining.

MOTION was made Councilmember Thomasson, seconded by Councilmember Scott, to supplement the current contract for professional engineering services for the 2007 Arterial Maintenance Program with KPG to include construction management services for this change order in the amount of \$6,500.00 bringing the total to \$177,659.83, plus authorize the City Manager or his designee to approve change orders up to an amount of 10% of the supplemented amount. Motion passed 5 to 0 with Councilmember Kaplan abstaining.

Consent Item #8 Contract for Landscape Design Services for Des Moines Field House Park

Councilmember Thomasson expressed concern that in the Scope of Services, it talks about the expansion of the baseball field, the location of a retaining wall and then talks about moving the centerfield lights. He referenced Council discussion during the budget adoption that we were not going to expand the hillside. He is not sure this proposal is exactly what the Council said the project should be.

Councilmember Scott expressed concern that since this is a very historic site and she does not want us to take a facility that is meant to serve the whole community and cut away at the hill side in order to create a larger ball field than the site really allows. She would rather that happen somewhere where there is ample room. She noted the description says cut, grade, and build retaining walls with fencing in the outfield, and all of that bothers her. She noted historic photos show little stone walls that divide the flat area from the slope areas and they match up with other stone elements that are in front, the sidewalks and the gutters of the field house building. While she is not sure about the ball field getting larger, she would at least like to see the slope retained

as a friendly element to the community and if there are any retaining walls, that they look appropriate for the historic elements, and no fence that would keep people from enjoying that slope. She noted that from the packet material she cannot tell what kind of fencing or retaining wall will be used.

Parks and Recreation Director Thorell advised that staff does not know the type of fencing or retaining wall since there is no survey of the property or conceptual design yet, as they are part of the contract work. She advised Council that during the last two master planning processes the community asked that the facility be enhanced. She noted there are some limitations including in-ground dugouts which are hazardous to the players, the home plate and the bases are too close to the grandstand and to relieve that stress, the bases need to be pulled out away from the grandstand, which means we need to expand the field out. This element has been in front of Council in the Master Plan for 10 years. She hopes with the use of grants we can improve the facility and bring it up to more modern baseball standards and enhance the play and use of the site. She also advised that staff is looking at the field in conjunction with the play area and improvements to the skate park so we can balance out the site. She reported the intent is to initiate the design work, bring it back to the Municipal Facilities Committee for review and do our very best to keep a balance.

City Manager Piasecki suggested that the architect spend a little time with the Committee and some of the Councilmembers who know the facility very well, just to get a feel for what the issues and concerns are before "pencil is put to paper". Then conceptual items can be brought back to the Committee for review.

Parks and Recreation Director Thorell also stated that staff will have the King County Historic Preservation Architect go over the site and ensure that the City is not doing anything that would be detrimental to its Landmark status.

Councilmember Thomasson commented that enlarging the ball field is contrary to the direction Council gave during the budget discussion, as he remembers.

City Manager Piasecki remarked that he remembers talking about concerns of making the field larger and how it might impact the historic nature of it, but he feels the safety issues raised are competing issues that need to be worked out. He pointed out it may end up that we cannot use the field for baseball, that it has to be Little League or Softball only, but those are the things we need to walk through with the landscape architect. He reminded Council that the play area and skate park also have to be redesigned.

Councilmember Thomasson advised if the contract said "study those things" and then based on decisions made, do what the decisions are, he would be okay. But the contract says, build a wall, make the field bigger and move the lights.

Parks and Recreation Director Thorell stated there are some real issues that need to be addressed and hopefully this is working towards that goal.

MOTION was made by Councilmember White, seconded by Councilmember Kaplan, to award the Consultant Agreement for landscape design services for Des Moines Field House Park to Robert W. Droll, Landscape Architect, PS in the amount of \$42,170.00 plus a 10% contingency, and to authorize the City Manager to sign the contract substantially in the form as submitted.

Councilmember Scot announced that she does not want to be committed to \$52,000 worth of work until the Council decides if they want to move forward.

City Manager Piasecki stated that if Council decides they do not want to go any further based upon discussions, direction and interaction with the consultant, then it stops there. We will pay the consultant for services to-date and it is done.

After further discussion regarding a termination clause, City Manager Piasecki requested the motion be passed as is "substantially in the form as submitted" with the understanding that Section 5 will be modified to allow the City to terminate the agreement with 30 days notice and payment for services rendered, and he can handle it from there.

VOTE ON MOTION: Motion passed 4 to 2 with Councilmembers Scott and Thomasson opposed.

Consent Item #9 - Ed Pina & Carmen Scott Travel Expenses to Meet with WA State's Congressional Delegation in Washington, DC

Councilmember Scott advised that she feels it is more important for Mayor Sheckler to attend this meeting as Mayor and spokesperson for the City, than it is for her to attend.

Mayor Sheckler advised that it is his choice and he feels Councilmembers Pina and Scott will be outstanding representatives for the City. He stated he watched Councilmember Scott at last years event and she always out performs because she brings magnificent "stuff" with her that Senators and Representatives love to look at. He thanked Councilmember Scott, noting he feels honored by her wanting him to go, but he totally disagrees and feels she is just as good, if not better, in representing the City.

MOTION was made by Councilmember Sherman, seconded by Councilmember Kaplan, to authorize payment of travel expenses of approximately \$1,700 each for Councilmembers Carmen Scott and Ed Pina to meet with Washington State's Congressional delegation in Washington, DC, in February 2008, for the purpose of requesting funds for Des Moines projects and priorities. Motion passed 5 to 0 with Councilmember Scott abstaining.

8:46 p.m. Mayor Sheckler called for a 10 minute break.

PUBLIC HEARING

Draft Ordinance Nos. 07-138 & 07-202 Street Vacation and Surplus of Public Property for Streets Located Within the Des Moines Creek Business Park Site; City File No. LUA-07-025 - 1st Readings

Mayor Sheckler announced that the purpose of this agenda item is to consider: 1) a petition to vacate portions of certain public rights-of-way in compliance with the provisions of DMMC 12.12.040 and RCW 35.79.010, and 2) a request to surplus specific strips of public property used for street purposes consistent with RCW 39.33.010 and 39.33.020. He declared the hearing OPEN. He questioned whether anyone had signed up to speak and the answer was negative. He then requested Administration proceed with their presentation.

Development Services Manager Ruth advised that this hearing will further the progress and work on the Des Moines Creek Business Park which is an 89 acre redevelopment project with up to 1

million square feet of building area, involving uses of light manufacturing, logistics, office and retail. He noted that in the way of the business park development are a series of segments of streets that run through the 89 acres, preventing the project from moving forward. This property was previously used for residential purposes and the streets being discussed were used for access to those properties. He stated the City controls 11.63 acres of road right-of-way and streets, which breaks down is 7.85 acres in right-of-way and 3.78 by ownership or deed. He noted the Port of Seattle is requesting that the Council consider vacating the rights-of-way and also the other streets associated with the ownership to allow for the Business Park Project to proceed forward. He noted there are two ordinances in Council's packet that are needed to approve the Port's request. He advised that staff is conditionally recommending that Council approve the ordinances by passing them on to a second reading. He proceeded to present graphics showing the entire 89 acre site, bounded by 208th Street on the north, on the east by 24th Avenue South, and on the south by South 216th Street. He also pointed out all the different streets running through the property. He pointed out that the Port of Seattle has acquired all of the land that surrounds the streets, which is a qualifying factor for participation levels for requesting the street vacation and surplus of property. He noted there is no public access to the property or the streets, which are basically abandoned, in place. He also noted there are two small portions currently owned by the Department of Transportation and ownership is being separately negotiated by the Port. Calling attention to the web of streets, he stated that if we are going to pursue a business park development, it would not be possible to position large buildings or parking lots that would serve the development in between these streets, and therefore they need to be removed. He referenced the two draft ordinances in Council's packet and their purposes as follows:

- Draft Ord. 07-202 would surplus certain property commonly known as portions of S 208th Street, S 210th Street and 20th Avenue S
- Draft Ord. 07-137 would vacate rights-of-way known as S 212th Street, S 213th Street, S 214th Street, 20th Avenue S, 20th Place S, 21st Avenue S and 22nd Avenue South

He raised the question whether S 208th Street should be removed from the request as this is the most direct route to the Des Moines Creek ravine. He advised that staff feels the access to the Des Moines Creek ravine is probably best addressed as a whole design issue, along with a series of other design requirements, in the Master Planning stage and for that reason the draft ordinance contains a condition that specific easements be provided to the Des Moines Creek ravine, but it does not go into the specific details as to where that is to be done.

Regarding the Conditions of Approval, Development Manager Ruth stated both draft ordinances contain the same conditions, summarized as follows:

- Full compensation
- Sunset provisions which nullify ordinance approval if future agreements cannot be obtained
- City Manager authorized to finalized details upon final payment
- Port of Seattle to provide public access/trail to Des Moines Creek
- Reserve right to retain easements for utility purposes
- Specific easement granted to Highline Water and Midway Sewer Districts for existing "pass-through" facilities
- Port of Seattle shall grant easements or tracts to protect environmentally sensitive areas

Mayor Sheckler inquired three times if there was anyone who wished to speak to Council on this issue and there was no response. He inquired of Council if they had any questions of staff.

Upon questioning by Mayor Pro Tem Sherman, Development Manager Ruth advised that the details of the nature of improvements for a public access/trail to Des Moines Creek have not been discussed or negotiated at any level as of yet. He further noted there is a requirement in the ordinance that easements be provided that allow for a trail, but until we see how the buildings and the parking areas are laid out we will not know how best a trail can be integrated with that type of development. The actual trail will be determined during the Master Planning level.

Councilmember Thomasson expressed concern about S 208th and whether it is appropriate to sell or not. He advised he could imagine a development scenario where 24th Avenue S could be a 4 or 5 lane street, with a signalized intersection at S 208th and there would be a western branch (street) to that which would come into the site. It would not seem right to sell them that land, only to have them later rededicate that land to the City. He would prefer to see what the future street layout will look like before we sell it.

Regarding page 5, (5) of Draft Ord. 07-202 providing for utility easements, Councilmember Thomasson felt this should pertain to a vacation statute, not a surplus statute. He does not feel the City can retain power to grant future easements. He suggested this be answered during the future 2nd reading of the ordinance. He noted he would like to see maps of those sewer and water district pipes that are to be retained, and the City's storm water system may be located. He felt that perhaps the City should not maintain any responsibility for storm water within the subject site. He suggested the sale be structured to include any pavement and drainage pipes, except for any drainage related to 24th Avenue South.

City Manager Piasecki suggested that since we know we are going to need some easements within the development when it is done, you could add a trigger that says 'once the Master Plan is approved by the Council, the easements are set' and the City cannot ask for any more.

Councilmember Thomasson noted this development will have to go through a subdivision process and that is the City's method to get the easements we need. Therefore, he has no desire to reserve future easements, except for those easements needed for the utilities that are in service.

Councilmember Thomasson advised that he has the same concerns in Draft Ord. 07-138 on page 5, (5) regarding easements and noted he would prefer not to reserve the right for future easements. He noted our goal is to take those out of the public realm, except for those existing easements for utilities that are in service. He remarked that he would like language added that states 'for any liabilities that exist, in the future or the past, the Port is responsible for'.

As there were no further Council comments or questions, Mayor Sheckler declared the hearing CLOSED.

MOTION was made by Councilmember Sherman, seconded by Councilmember White, to pass Draft Ordinance No. 07-138 approving a request to vacate certain portions of public rights-of-way/streets specifically identified and legally described in said ordinance for the purpose of future business park development to a second reading on February 28, 2008, with the conditions and changes as discussed by Council.

A FRIENDLY AMENDMENT was offered by Councilmember Kaplan, accepted by the maker and seconder of the motion, to add "with the conditions and changes as discussed by Council.

VOTE ON MOTION: Motion passed unanimously 6 to 0.

MOTION was made by Councilmember Sherman, seconded by Councilmember White, to pass Draft Ordinance No. 07-202 approving a request to surplus those strips of public property specifically identified and legally described in said ordinance and to sell said strips of property to the Port of Seattle for the purpose of future business park development to a second reading on February 28, 2008, with the conditions and changes as discussed by Council. Motion passed 6 to 0.

Mayor Sheckler read the draft ordinances by title into the record.

OLD BUSINESS

Draft Ordinance No. 07-200 [ASSIGNED ORD. NO. 1426] Development Noticing Requirements - 2nd Reading

MOTION was made by Mayor Sheckler, seconded by Councilmember Kaplan, to adopt Draft Ordinance 07-200 amending Chapter 16.04 DMMC requiring that all SEPA and other land use-related public notices be mailed to the taxpayer's official mailing address instead of the property address.

Councilmember Thomasson commented that questions/concerns have been addressed from the 1st reading of the draft ordinance.

Mayor Pro Tem Sherman spoke in support of the draft ordinance stating it will provide better notification to citizens.

VOTE ON MOTION: Motion passed unanimously 6 to 0.

Mayor Sheckler read the ordinance by title into the record.

Reconsideration of Draft Ordinance No. 07-201 [ASSIGNED ORD. NO. 1427] - 8th Avenue South Access Restrictions - 1st Reading

City Manager Piasecki introduced the subject advising that a public hearing was held, comments were taken, questions were asked of staff, the public hearing was closed and Council remanded the item to the Public Safety and Transportation Committee for recommendations. At the February 7th meeting a motion was approved to reconsider this action on tonight's agenda. At this point it is as if the public hearing has just been closed. He advised any of the motions listed in Council's packet or a new one, may be made.

MOTION was made by Councilmember Thomasson, seconded by Mayor Pro Tem Sherman, to suspend Council Rule 26(b) to take action on Draft Ordinance No. 07-201 on a first reading. Motion passed 4 to 2 with Councilmembers Kaplan and White opposed.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Scott, to adopt Draft Ordinance No. 07-201 amending DMMC 18.27.050(3) relating to access from 8th Avenue South in the Downtown Commercial Zone.

Councilmember Thomasson noted that previously he had questioned what was meant by "primary".

MOTION was made by Councilmember Thomasson, seconded by Councilmember Sherman, to amend by substituting "customer or employee" for the word primary

Councilmember Kaplan voiced objection to the amendment and the ordinance as it is his belief that Council needs to address the issues related to transportation in downtown, and that includes 8th Avenue. He feels this ties in with what development regulations are in downtown, including permitted uses and a number of other issues. He feels this ordinance does not allow for flexibility necessary to deal with eventualities that will come up, prior to Council deliberations on those regulations.

Councilmember Scott commented that 8th Avenue is only a residential half street and it is not part of the downtown retail district. She stated this is part of a much bigger problem that Council needs to address soon. She noted Council's goal is to have Marine View Drive be walkable, with retail that does not have big gaps in between, and current rules in place defeat that goal. She would prefer to put something in place that protects 8th Avenue while Council addresses the issues and start solving the real problem, which is on Marine View Drive.

Councilmember White noted she agrees this is part of a bigger problem in downtown and she would suggest this issue be remanded to the Economic Development Committee.

Mayor Sheckler advised that his original intent was to have a Council committee review the draft ordinance for recommendations, and in the meantime Council can review the downtown area as a whole. He also had thought of using a 6 month moratorium, or longer, to allow time for review of the downtown area.

Mayor Pro Tem Sherman spoke in support of the amendment and noted that nothing in the draft ordinance precludes further discussion regarding the downtown area and what needs to done. He felt the amendment clarifies what primary means and does not stop residential use of 8th Avenue.

Councilmember Kaplan questioned whether the amendment could legally encumber the two existing businesses that do have ingress/egress off of 8th Avenue.

City Attorney Bosmans' response was that this ordinance would only apply to future businesses. As long as the existing two businesses do not change their use they are exempt. However, should the nature of the businesses change then the ordinance would apply.

Mayor Sheckler advised he can support the motion as his intent is not to allow any further ingress/egress on 8th Avenue. He felt until something is done to change that half street we should be honoring the requests of the residents who rely on that street. The issue of waiting until we review the downtown planning, creates a problem if a new development comes in and that makes most Councilmembers and staff uncomfortable. He suggested if there is enough support perhaps a moratorium might be the answer.

Councilmember Thomasson stated that moratoriums are problematic as you have to have hearings, they expire, you must develop findings, where as a Council we are saying downtown is on our "futures'" to work on. He felt passing this ordinance is simpler and more effective than a moratorium.

VOTE ON AMENDMENT: Motion passed 4 to 2 with Councilmembers Kaplan and White opposed.

VOTE ON MAIN MOTION: Motion passed 4 to 2 with Councilmembers Kaplan and White opposed.

Mayor Sheckler acknowledged that discussion regarding the downtown area will be scheduled for Saturday work sessions sometime in the future.

NEW BUSINESS

Request for Council's Support on Two Public Safety Programs

Mayor Sheckler noted the programs are:

- HB 2952-2007-08 allowing civil forfeiture of conveyances use in prostitution related offenses, and
- Digital information gather system (DIGS) support for project and grant request.

Police Commander O'Leary requested support from the Council for what the Police Department feels will be effective tools to deal with some issues facing the City, specifically prostitution problems and with respect to some technology needs.

In regards to HB 2952, Commander O'Leary stated Des Moines and City of Kent share a real problem with prostitution along Pacific Highway South, with numerous complaints from businesses, the Woodmont Library, Woodmont Elementary School and residents of the neighboring communities. He advised that the House Bill as currently drafted would only address those areas that Council has previously declared as "Stay Out of Area of Prostitution" by passage of a recent ordinance. He noted the Bill is modeled similar to the current drug forfeiture laws with respect to the seizing and forfeiture of a vehicle that is used involved in a prostitution activity. This Bill is designed primarily to serve as a deterrent to people who may be interested in prostitution activity by putting their vehicle at risk. He advised the vehicle is a 'significant player' in prostitution activity as it transports the person to where the prostitution is going on, serves as a meeting point, and in many cases where the actual prostitution act occurs. He informed Council that the following support this bill: King County Police Chief's and the Washington State Association of Police Chief's and Sheriff's.

Upon questioning, Commander O'Leary confirmed that the Bill will only apply to those physical areas Council described in the previously approved "SOAP" ordinance.

MOTION was made by Councilmember White to approve the Council support for HB 2952-2007-08 and the Digital Information Gathering System and the King County Sheriff's request for regional grant funding. Motion FAILED for lack of a second.

MOTION was made by Mayor Pro Tem Sherman, seconded by Councilmember White, to approve Council support for the Digital Information Gathering System and the King County Sheriff's request for regional grant funding. Motion passed 6 to 0.

10:27 p.m. MOTION was made by Councilmember Thomasson, seconded by Councilmember Kaplan and passed unanimously, to extend the meeting until 10:45 p.m.

In regards to HB 2952, Councilmember Thomasson questioned whether most arrests for prostitution are felonies or misdemeanors. Commander O'Leary responded they are usually misdemeanors or gross misdemeanors. Councilmember Thomasson felt the Bill would be adding a penalty that usually is reserved for felonies. He also expressed concern over a husband getting arrested and losing the car, but it is also the wife's car and she will also be penalized.

Commander O'Leary informed Council that a person having an interest in the vehicle, as in a husband and wife, the police would have to show that she had knowledge or consented to the act of prostitution. It is noted there is a process when anyone having interest in the vehicle has a right to contest that seizure. Typically if the Police know of that type of situation, they will not pursue the vehicle seizure.

Councilmember Thomasson stated that for the Police to be able to seize a \$70,000 car under a misdemeanor charge would seem to him to be 'cruel and unusual' punishment. While he understands the goal, he is not sure this is the right tool.

Commander O'Leary expressed concern that should the Bill pass under a State measure, and other jurisdictions pass it and Des Moines does not, more prostitution will come into our City.

Councilmember Thomasson pointed out the question tonight is whether we advise our Legislators to enact this Bill. He noted it would be something the Council would have to think about if it were already enacted and our neighboring cities had adopted it, until then he cannot support the Bill.

Mayor Pro Tem Sherman expressed agreement with Councilmember Thomasson and stated he hopes the Legislature does not pass this Bill.

Councilmember Scott did note that on a recent trip to Olympia, when Councilmembers mentioned concerns about an innocent person losing their car, Representative Shay Schual-Berke, within a day, had a new section added so that the vehicle would not be taken if it belonged to an innocent party. She felt this showed an attempt was being made to be as fair and responsible as possible.

NEXT MEETING DATE

Mayor Sheckler noted the next regular meeting will be February 28, 2008.

ADJOURNMENT

At 10:38 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Mayor Pro Tem Sherman and passed unanimously, to adjourn.

Respectfully submitted,

Denis Staab
City Clerk