

## REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

March 6, 2008

At 7:26 p.m. City Manager Piasecki announced that Council will continue in an Executive Session for approximately another 10 minutes.

The regular study session of the Des Moines City Council was called to order at 7:37 p.m. by Mayor Sheckler in the Council Chambers, 21630 11<sup>th</sup> Avenue South, #B.

PLEDGE OF ALLEGIANCE to the Flag was led by Mayor Pro Tem Sherman.

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Dan Sherman, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott and Scott Thomasson. Absent: Councilmember Susan White. Also in attendance were City Manager Tony Piasecki, City Attorney Pat Bosmans, Development Services Manager Robert Ruth, Planning Manager Denise Lathrop and City Clerk Denis Staab.

MOTION was made by Mayor Pro Tem Sherman, seconded by Councilmember Kaplan and passed unanimously, to excuse Councilmember White.

### COMMENTS FROM THE PUBLIC

#### Stan Scarvie, 204 South 206<sup>th</sup> Street

Mr. Scarvie addressed Council regarding potential downtown zoning changes. He stated it is important for Council to get as much citizen input as possible as this is an emotional and financial issue for many citizens. He is particularly concerned with building heights. He suggested Council look at the new townhome development on SW 196<sup>th</sup> and 194<sup>th</sup> off of 1<sup>st</sup> Avenue South in Normandy Park to view the negative impact this can have on existing, established neighborhoods.

#### Anita Johnson, 22555 10<sup>th</sup> Avenue South

Ms. Johnson informed Council that she has lived in Des Moines for 50 years near the downtown area. She requested Council include citizens in any master planning committee to express their concerns. She noted nearby residents of the downtown area will be greatly impacted and need to be heard.

Mayor Sheckler assured Mr. Scarvie and Ms. Johnson that Council will seek lots of citizen input on any future downtown planning.

#### 7:42 p.m. Executive Session

At Mayor Sheckler's request, City Attorney Bosmans announced that Council will go into an Executive Session for approximately 30 minutes to discuss real estate matters, about which public knowledge might have an adverse impact on price to the detriment of the City.

At 8:08 Mayor Sheckler announced the Executive Session will be extended 10 minutes.

At 8:24 Mayor Sheckler announced the Executive Session will be extended 5 minutes.

No formal action was taken

Adjournment

At 8:26 p.m. the Executive Session was adjourned.

DISCUSSION ITEMS

Draft Ordinance No. 07-138 [ASSIGNED NO. 1428] Street Vacation & Draft Ordinance No. 07-2002 [ASSIGNED NO. 1429] Surplus Property for Des Moines Creek Business Park - 2<sup>nd</sup> Reading

Councilmember Pina announced that he has viewed the video of the Public Hearing that was held on February 14, 2008, including packet material, so he can participate in tonight's discussions.

Development Services Manager Ruth noted at the February 14<sup>th</sup> meeting Council directed staff to make some changes to the two draft ordinances. He pointed out in addition to the changes Council directed, there were two topical issues that the Port of Seattle requested be included in the draft ordinances. These draft ordinances are at Council's places dated March 6, 2008. He also pointed out staff has provided the appraisal information and a copy of the 1<sup>st</sup> Addendum to the First Development Agreement which specifies the payment terms for the streets Council is discussing this evening. He reminded Council that the vacation ordinance and surplus property ordinance are very similar in their construction, therefore changes will be similar in both ordinances. He proceeded to review the changes to Draft Ordinance 07-138 as follows:

- Section 3 (2) added to read: The purchase of vacated rights-of-way under this ordinance shall include ownership of all inactive and non-functioning improvements to city streets, including but not limited to, pavement and drainage systems. It is the sole responsibility of the purchaser to remove and properly dispose of these inactive and non-functioning improvements.
- Section 3 (5) easement reservation language revised to read: The Port of Seattle shall preserve public access to the public trail located on abutting land owned by the City. The Port shall provide access improvements within the natural open space areas adjacent to the upper critical area buffer associated with Des Moines Creek.
- Section 3 (6) former language struck out and replaced with: The Port of Seattle shall contract all utility purveyors serving this site to identify and grant desired easements, if any, for active and permanent utility systems and improvements within property vacated under this ordinance.
- Section 3 (8): Struck entirely.

In regards to changes in Draft Ordinance 07-202 Development Services Manager Ruth noted the changes are identical.

**MOTION** was made by Councilmember Kaplan, seconded by Councilmember Scott, to adopt Draft Ordinance No. 07-138 as dated March 6, 2008 10:30 a.m., approving a request to vacate certain portions of public rights-of-way/streets specifically identified and legally described in said ordinance of the purpose of future business park development.

Mayor Pro Tem Sherman suggested at the end of Section 6 words be added: "upon satisfaction of Section 3 (4). This was accepted as a FRIENDLY AMENDMENT by the maker and seconder of the motion.

Councilmember Thomasson suggested a Whereas should be included, to the extent that we are reserving easements for the water and sewer districts, to support that action. This was accepted as a FRIENDLY AMENDMENT by the maker and seconder of the motion.

Councilmember Thomasson referenced Section 4 on page 8, and felt this language is repetitive. After further discussion, it was Council's CONSENSUS and agreeable with the maker and seconder to STRIKE Section 4.

Councilmember Thomasson addressed Section 1(4), noting that in the future 24<sup>th</sup> Avenue South may need to be 15 to 20 feet wider, South 216<sup>th</sup> may need to be 5 to 10 feet wider. He stated he cannot support surplusing these streets and saying there is no future need, when we know in the adopted street plans we say there is a need for wider streets in these areas.

City Attorney Bosmans noted this language is required under State Statute to have a finding that it is surplus. She further noted we are vacating our interests in order to allow the developer to rededicate it back to us for public purposes. She pointed out that what the City is losing is our interest in the underlying property.

City Manager Piasecki added that while it is very likely the City will widen the road an equal amount on either side, it is possible that the road widening may actually be done all on one side if we had a rather interesting alignment of the road. While this is not likely, it is possible.

Mayor Pro Tem Sherman felt that at the time we are surplusing, we really do not need rights-of-way if the land is not developed. However, if or when it is developed, then the Port will have to give it back to us.

Councilmember Pina expressed agreement with Mayor Pro Tem Sherman.

Councilmember Scott noted we are agreeing to vacating streets that served plats that are no longer residential plats, and will not be in the future, as the whole character of the land is changing to non-residential.

Councilmember Thomasson stated while he supports the vacation he cannot support condition (4) and therefore will not vote in favor of the motion.

VOTE ON MOTION: Motion passed 5 to 1 with Councilmember Thomasson opposed.

Mayor Sheckler read the ordinance by title into the records.

**MOTION** was made by Councilmember Kaplan, seconded by Councilmember Pina, to adopt Draft Ordinance No. 07-202 as amended by Port of Seattle, dated March 6, 2008 10:30 a.m., including the same amendments as made in the previous ordinance, 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.

Councilmember Thomasson advised that he cannot support this motion for the same reason as the previous, which is condition (4).

VOTE ON MOTION: Motion passed 5 to 1 with Councilmember Thomasson opposed.

Mayor Sheckler read the ordinance by title into the record.

8:54 p.m. Mayor Sheckler called for a 10 minute break.

Zoning Code Update

Planning Manager Lathrop advised that the focus tonight is on Division 3, Environment Section of the code. The goal is to group all the Code sections relating to environmental review processes or regulations together. This will include the critical areas ordinance, Shoreline Master Program, State Environmental Policy Act and the Commute trip Reduction Plan. She advised staff has identified a potential new chapter on Green Building Standards, depending on Council direction. She displayed a Zoning Code Conversion table depicting existing zoning code and the reformatted code as follows:

Existing Zoning Code	Reformatted Code
Chapters:	Chapters:
18.86 Environmentally Critical Areas	18.96 Environmentally Critical Areas
18.90 Shoreline Master Program	18.100 Shoreline Master Program
16.04 SEPA Rules	18.104 State Environmental Policy Act
16.16 Commute Trip Reduction Plan	18.108 Commute Trip Reduction Planning, Building and Public Works Director Fredricks
	<i>New Chapter:</i> 18.112 Green Building Standards (Reserved)

She and Land Use Planner II Sullivan proceeded to review proposed amendments to the above noted chapters:

- *Environmentally Critical Areas:*

Proposed Amendment 1 - Provisions for "adjustments to dimensional requirements" be added to provide both property owners and staff guidance on the extent to which they can adjust yard setbacks to protect critical areas while allowing for reasonable use of property.

Proposed Amendment 2 - Text amendment that was missed in the final edits to the Critical Areas Ordinance.

- *SEPA Rules:*

Proposed Amendment 1 - 16.04.010 Authority to read "The city adopts this chapter under the State Environmental Policy Act, RCW 43.21C.120. The City adopts chapter 197-11 WAC as presently constituted or as may be subsequently amended, by reference as modified by this chapter as the City's official SEPA procedures and policies.

Proposed Amendment 2 - Move noticing procedures 16.04.160, 16.04.163-16.04.165 and 16.04.167 to the new Land Use Review Procedures chapter 18.12 and adding a new section to the SEPA chapter to read: "Noticing procedures for notices required by the chapter are provided in Chapter 18.12 Land Use Review Procedures.

Proposed Amendment 3 - Definitions in DMMC 16.04.030 be moved to the new definitions chapter in Chapter 18.08.

Proposed Amendment 4 - The fee section in DMMC 16.04.260 be moved to new Administration chapter.

Proposed Amendment 5 - Delete section 16.04 and change to SEPA responsible official and the department designated by the City Manager act as the Lead Agency for the City.

Proposed Amendment 6 - Move 16.04.200(4)(d) into a separate section entitled "Adopted Policy Documents and Environmental Studies" in the Administration Chapter of new Development Code.

Proposed Amendment 7 - DMMC 16.04.162(2) be revised so that items listed in sub-sections "a-d" are placed with "Whenever the City issues a DEIS under WAC 197-11-455(5) or a draft SEIS under WAC 197-11-620, notice of these documents and their availability shall be given as follows: (1) Public Hearings. Any required public hearing notice shall indicate the availability of the DEIS or the SEIS. (2) No Public Hearing. For applications not requiring a public hearing, public notices shall be provided in accordance with the City's official Noticing Procedures in DMMC 18.12 Land Use Procedures.

- *Chapter 16.16 Commute Trip Reduction Plan:*

Intent is to establish goals and provisions for employers to reduce vehicle miles traveled by their employees and also single occupancy vehicle trips. Currently in Title 16, move it to 18.--.108 or Title 12 Streets, Sidewalks & Public Places.

- *Chapter 18.18.112 Green Building Standards*

Proposed new chapter (yet to be developed). Intent would be to establish conditions to provide bonuses for development within commercial and business park zones that includes Leadership in Energy and Environmental Design criteria.

Councilmember Kaplan is not sure green building standards should be addressed at this policy level or whether it should just be addressed as the International Building Code drives such discussion.

At 9:30 p.m. Mayor Sheckler left the Council Chambers and Mayor Pro Tem Sherman became Presiding Officer for the remainder of the meeting.

Councilmember Thomasson advised he has no interest in the green building standards because it is being presented as "we will encourage you to do green building and give you bonuses to do that". However, he feels if it is the right thing to do, it should just be required, and not offer bonuses. He also stressed that Council already has plenty of things it wants to get done, without sending staff off to do research on something that is not on Council's current list of things to accomplish.

Mayor Pro Tem Sherman questioned whether Councilmembers wished to reserve a special chapter for Green Building Standards. Council's CONSENSUS was NO.

Councilmember Scott felt it is important for the City to encourage citizens to be "environmentally friendly" in all areas.

### Midway Area Planning Update

Panning Manager Lathrop informed Council that the Kent Council Planning and Economic Development Committee and the Des Moines Council Finance and Economic Development Committee met on February 11 and 20, 2008. She advised the purpose of the meetings was to set direction for the project including mission, goals and boundary area, as well as the make-up of the Stakeholder Committee. She reviewed the following:

- Mission Statement: To transform the Midway community into a sustainable urban area which enhances commercial development and optimizes its geographic location, wide range of transportation options, educational institutions, and views.
- Goals as prioritized by Des Moines and Kent Council members:

1. Provide a mix of land uses that increase revenues, job opportunities and housing choices.
2. Provide for public participation in the development of land use policies, development regulations and implementation strategies within the study area.
3. Reconcile development standards along the border between the cities of Kent and Des Moines to be consistent and reflect the vision for the study area.
4. Provide appropriate land uses and regulations that support Bus Rapid Transit within the Pacific Highway corridor.
5. Identify preferred alignments for light rail and the associated station and stop locations within Kent and Des Moines.
6. Ensure design that provides a safe and inviting pedestrian environment.

She continued by reviewing makeup of the proposed Stakeholder Committee as follows:

City of Kent Councilmember & Land Use & Planning Board Member, Des Moines Councilmember & Planning Agency Member, City of SeaTac, City of Federal Way, Highline Community College, Washington State Dept. of Transportation, Puget Sound Regional Council, King County METRO, Sound Transit, Seattle Public Utilities, Chamber of Commerce, and Neighborhood Council.

Additions to the original list includes:

King County (staff to select), CTED and major property owners in the area.

Additions by the Mayor of Kent:

Trucking Industry and major business owners in the area.

Councilmember Kaplan expressed some concern about the breadth of the stakeholder committee and how it will mesh or not. In looking at the goals he felt they are broad enough, but noting that Des Moines has already made choices in the Pacific Ridge area he is somewhat concerned about what Kent has planned for mainly commercial development.

Councilmember Thomasson, who attended the first two meetings, informed Council that consensus was "everyone can live with the goals". In regards to the proposed stakeholder committee, he agreed that are some that he cannot see a reason for them to be included, such as Puget Sound Regional Council. He noted CTED was added only because they are giving the money to do the study. He advised the next thing that will come to Council is the Agreement that set up the terms under which Des Moines and Kent will actually do the project. One of his concerns is what is the Stakeholder Committee - a group that is empowered to go forth and study and bring back alternatives, or are they a group of people which comment on ideas that you give to them to know what their feelings are? Are we empowering them to be a doing committee, or is it just an assemblage of people to comment? He stated that to him this is a critical issue and as a Council, Des Moines needs to figure out what authority is going to be bestowed upon this committee.

Mayor Pro Tem Sherman remarked that in the end it will be the Kent and Des Moines City Council's that decide individually whether they want the recommended changes.

City Manager Piasecki informed Council that the draft Interlocal agreement will be coming to Council soon. He noted it is extremely short and it does not really talk at all about what the Stakeholder Committee is going to do.

Planning Manager Lathrop advised there is some language in the agreement concerning the Stakeholder Committee. She informed Council that the intent of the Committee is to learn about

all of the activities that are going on and how that could effect the planning that is being done by the involved cities. They will also be used as a sounding board, by interviewing Councilmembers and the community as to what the visions and concerns are. She noted they have hired a design consultant to help facilitate the meetings and to do some design concepts for the project team.

Mayor Pro Tem Sherman noted that the Grant is "seed" money in the amount of \$125,000 and questioned whether Des Moines will be asked later for more money.

Planning Manager Lathrop stated this is a joint planning effort, with Kent in the lead as they have the bigger vision for a sub-area plan and a SEPA planned action. She noted at the end of this process it is expected to produce alternatives that Kent will carry forward into a more detailed sub-area plan. On a similar note, she felt Des Moines will be informed about what is happening in the area and it is an opportunity to change our land use if it seems amendable to do so.

Councilmember Kaplan noted that the property south of Kent-Des Moines Road is the last stretch of commercial property Des Moines has that Council has not really given any direction on. He stated he is very sensitive to the impacts, or the relationship, to whatever Kent does should not change the availability of the limited amount of commercial or industrial land that Des Moines has.

Councilmember Thomasson commented that he hopes the proposed agreement will have a clause that if Des Moines does not like what is happening, we can get out. Also make sure there are provisions that we do not have to adopt anything we don't want, and do not have to agree, when we are done.

Planning Manager Lathrop informed Council that when staff pursued the grant it was looked at as a planning opportunity and perhaps we may adopt new design guidelines that create a unified character throughout the area. The process is to explore what the opportunities and options are, what are the issues, get input from the community, and have the discussion at Council and Planning Agency level as where to go from what is learned.

Councilmember Kaplan felt that if nothing else, it gives Des Moines an early warning system for what is going on in Kent that may impact Des Moines.

In conclusion, Planning Manager Lathrop stated they are in the process of developing a project website, a lot of upcoming community work shops are planned, with opportunities for Council to participate and to learn what the community feels about the project.

Councilmember Pina commented that he hopes Kent recognizes Des Moines as an equal in terms of adopting any final plan.

City Manager Piasecki informed Council that he has made it very clear to staff that we will provide many opportunities for Council input and comment. He also informed Council that they do not have to anything they don't want to. He made it clear during the last two meetings that Des Moines right now does not have a great compatible land use process or uses that are allowed, there are several things where Kent allows something and we don't, and vice-a-versa.

He felt if the parties want to make this work, it will involve a little compromise on both sides, or this process will not work.

#### Downtown Planning Update

Planning Manager Lathrop stated staff is seeking policy direction from Council before proceeding with any of the planning work for the downtown area. She displayed a map of the planning area that used S 216<sup>th</sup> on the north, the Beach Park and Marina on the west, 8<sup>th</sup> Avenue South on the east, and Kent-Des Moines Road and South 230<sup>th</sup> on the south. She noted some of the related issues discussed that will influence the work downtown include the Marina Mater Plan, Beach Park improvements, water infrastructure, the Comprehensive Transportation Plan update and the Street Development Standards. She also pointed out there are a number of opportunities which include:

- University Storefront Studio Project - Looking at creating connections to the waterfront, the Beach Park and other parts of the community, gateway treatments, urban design issues in downtown.
- Draft Design Guidelines prepared in 2004.
- Main Street Program - As a member they have good resources to use and ideas for marketing downtown for economic development.

She continued by noting that included in Council's packet is information from the National Trust for Historic Preservation and the Main Street Program that talk about the importance of downtowns which includes photos of businesses and current uses in downtown. Also included is the Main Street four point approach which includes design, organization, promotion and economic restructuring. She reviewed goals taken from the City's web site that represent some things that can be achieved as part of the downtown planning which include: promoting economic vitality on a citywide basis, maintain and enhance the City's infrastructure system, and take advantage of the recreational opportunities among other items.

Councilmember Kaplan stated he would like to pursue a similar approach that was used with Pacific Ridge, and brain storm what the vision of downtown is, ask major land owners and developers what their thoughts are, hold neighborhood meetings in the downtown area to ask residents what they think. He felt this will give Council a good basis to figure out what makes the most sense in terms of what we want to see.

Upon questioning, City Manager Piasecki stated the special meeting on March 29<sup>th</sup> is for Council to review and update strategic goals and objectives and to restart discussions on priorities of government. He suggested that if staff is ready to have a brain storming session, then the special meeting on April 26<sup>th</sup> may be a good date.

Councilmember Scott felt it is important for Council to discuss and review what each Councilmember sees as problems and goals before staff goes any further in trying to put a final plan together.

Councilmember Thomasson expressed agreement with Councilmember Kaplan and felt Council needs to identify why we are doing a downtown neighborhood update, and are there a few things that need to be updated as opposed to lets start all over again. He felt that Council does not know what the problems are that we are trying to solve. He also stated that if downtown is for all of Des Moines then Council needs to hear from citizens all over from North Hill to Redondo, which to him is more important that the property owner who is hoping to make a lot of money. He felt there is a lot of policy frame work that needs to be completed before Council can

determine what the rest of the work is. He specifically requested resolution of whether Marine View Drive is a State Highway or not.

Councilmember Pina suggested a collective definition of the exact boundaries of the downtown area needs to be determined.

Somber Anniversary - Police Officer Underwood

Councilmember Kaplan remarked that tomorrow is the 7<sup>th</sup> anniversary of the death of Officer Steve Underwood. He felt it is important to remember our Police Officers are out there looking out for our interests daily and we should be thankful for the work they are doing.

Mt. Rainier High School Basketball

Councilmember Thomasson noted that the High School is participating in the Washington State High School Basketball Championship. He stated they won the first round yesterday, but lost today to Seattle Prep in overtime. They will have another game tomorrow.

NEXT MEETING DATE

Mayor Pro Tem Sherman noted the next regular meeting will be March 13, 2008

ADJOURNMENT

At 10:30 p.m. the meeting adjourned by time expiring.

Respectfully submitted,

Denis Staab  
City Clerk