

## REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

March 13, 2008

The regular meeting of the Des Moines City Council was called to order at 7:30 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 Sheckler.

ROLL CALL - Present: Mayor Bob Sheckler, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott and Scott Thomasson. Absent: Mayor Pro Tem Dan Sherman and Councilmember Susan White. 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 II Jason Sullivan and City Clerk Denis Staab.

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

### COMMENTS FROM THE PUBLIC

#### Henry Stahl, 1640 S. 261<sup>st</sup> Place

Mr. Stahl informed Council that in October 2005, he and others from Upper Woodmont testified in opposition of a rezone in an open area east of their neighborhood, protesting proposed traffic from the development through their residential Streets. He noted that on November 17, 2005, the rezone was approved with the restriction that no direct access, except for emergency vehicles, would be made through streets South 261<sup>st</sup> through South 264<sup>th</sup>. He continued by advising that late last summer the City's building and planning department approved hauling of fill from a utility project to the developing subdivision, using South 261<sup>st</sup> and S 262<sup>nd</sup> Streets, which amounted to approximately 4000 cubic yards of fill, equating to 800 truck trips through the neighborhood. He noted numerous contacts were made to City staff to stop the intrusion. He felt the information given by staff was a deliberate deception and contained outright lies. A letter was issued by Planning, Building and Public Works Director Fredricks which basically stated no laws were being broken. He informed Council that it has been indicated that another haul is about to begin and he requested that the City Council take immediate action to ensure they do not have to endure another season of dust, noise and diesel fumes by:

1. Prohibiting any additional hauling into this site, and
2. Prohibiting any removal of the stored soil until it can be removed via Pacific Highway access.

Mayor Sheckler assured Mr. Stahl that administration will look into the matter and respond to his concerns.

### PRESIDING OFFICER'S REPORT

#### Draft Resolution No. 08-052 [ASSIGNED NO. 1065] Honoring Former Mayor Tom Mannard & Dedicating and Declaring March 9<sup>th</sup> to be "Tom Mannard Day" in Remembrance of His Life

Mayor Sheckler announced that he is removing Consent Item #10 so he can address it at this time.

**MOTION** was made by Mayor Sheckler, seconded by Councilmember Kaplan to approve Draft Resolution No. 08-052 honoring former Mayor Tom Mannard for his service to the City of Des Moines, and dedicating and declaring March 9<sup>th</sup> to be "Tom Mannard Day" in remembrance of his life. Motion passed unanimously.

Mayor Sheckler read the resolution in its entirety into the record which stated:

The City Council honors Tom Mannard for his service to the Des Moines community, as a citizen, Planning Commissioner (10 years), City Councilmember (20 years), and Mayor (2 years).

The City of Des Moines dedicates and declares March 9<sup>th</sup> to be "Tom Mannard Day", now and in the future, as a day of remembrance of his life and his dedication to family and community.

Mayor Sheckler presented a signed copy of the Resolution to Mr. Mannard's wife Judy and their son Mark, who were present.

Mrs. Mannard thanked Council, noting that she is honored and that Tom would have been very happy.

#### BOARD & COMMITTEE REPORTS & COUNCILMEMBER COMMENTS

##### Honoring Tom Mannard

Councilmember Scott stated that 20 years ago she served her first two years as a Councilmember in 1988 and 1989 with Tom Mannard, noting she benefited greatly from his experience and guidance, and he will be truly missed.

Mayor Sheckler advised that the funeral will be held March 28<sup>th</sup> at 11 a.m. at Holy Spirit Church in Kent located at 327 2<sup>nd</sup> Avenue South.

##### Public Safety & Transportation Committee

Councilmember Kaplan reported the Committee met last week covering a number of topics, one of which is Consent Item #9 on tonight's agenda. He informed Council that the Committee does recommend approval of this item.

##### Honoring Tom Mannard

Councilmember Kaplan noted he first met Mr. Mannard when he ran for Council in 1997. He stated he learned from him the importance of listening to a lot of different perspectives to get a well rounded view to make intelligent decisions on the Council. He felt his passing is a big loss for the City but he will remember March 9<sup>th</sup> as a happy day for all the things that he and his wife Judy contributed to the community, which will never be lost.

##### Human Services Committee Correspondence to Council

Councilmember Thomasson referenced the letter from the Committee requesting direction on funding for 2009 and having this brought to the Council's Finance and Economic Committee. He felt it would be better to have this discussion before the Council as a whole.

Honoring Tom Mannard

Councilmember Thomasson noted he served his first two years as a Councilmember with Tom Mannard, during Mr. Mannard's last 2 years on the Council. He commented that he enjoyed serving with him and thanked his family for his service to the community.

ADMINISTRATION REPORTS

King County Councilmember Julia Patterson

Councilmember Patterson stated she tries to address Des Moines Council at least once a year, noting that they represent the same citizens, just at different levels of government. She felt it is important to have a positive open working relationship as it benefits constituents tremendously.

Councilmember Patterson proceeded to inform Council of an 'Equity & Social Justice Initiative' for the south King County area. She cited numerous statistics in South King County regarding high school drop out rates, working poor, little or no health care, high youth incarceration rates, and other issues being a real concern when compared to east King County. She advised she is pursuing this new initiative to address this real community problem within South King County and invited everyone to attend a Town Hall Meeting on March 24<sup>th</sup> in Kent at the Senior Activity Center at 6:30 p.m., to learn more and organize to make a difference. She stressed the importance of working together as small suburban cities have trouble competing with Seattle and Bellevue. She stated after the Town Hall meeting she plans to hold a summit to bring local leadership together to help solve the problems of distribution of regional wealth to bring changes that will benefit the smaller south King County cities, such as Des Moines.

In regards to investments in regional parks and trails, she advised she is working with Patrice in trying to organize Des Moines, SeaTac, Burien and Tukwila to create a regional trail connection to connect with the Green River Trail, the Interurban Trail and eventually all the way to the Cedar River Trail. Several meetings have been held on how to move forward because we need to bring funds to South King County so that we can have a trail system equal to the Burke-Gillman Trail.

Mayor Sheckler commented that he attended those meetings and he noted how much money that South King County has put into these efforts toward the Arts and just how little we are getting back. He noted that Highline School District was not in attendance and he has organized a meeting with the Highline School District Superintendent and others who are anxious get funds for our area, however we do need to ask for it.

Councilmember Patterson offered her help in anyway to encourage Highline School District to apply for any available grants.

Councilmember Pina offered the observation on how important it is to have the parents and community supporting good education in providing a good future. In regards to health issues and education, he felt it is important to get the public to recognize what collectively we can do and why we should.

In response to questioning from Councilmember Thomasson on the new County Charter, Councilmember Patterson advised that next month the draft recommendations will come forward and a Town Hall meeting on the subject is planned for this summer to be held in Federal Way.

At that time Councilmembers and citizens will have the opportunity to comment on any changes to the Charter.

Council Retreat

City Manager Piasecki reminded Council that a retreat will be held March 29<sup>th</sup> at the Activity Center.

Finalists for Des Moines Creek Business Park Project

City Manager Piasecki reported that he and Planning, Building and Public Works Director Fredricks spent today at SeaTac airport with Port of Seattle staff interviewing the three finalists to be the master planner for the Des Moines Creek Business Park project. He felt the discussions went well and each of the finalists have been asked to provide some additional information to help form the final decision that the Port Commission will ultimately make on who the developer for that site will be.

Consent Calendar Item #9

City Manager Piasecki informed Council that even with approval of this change to the contract there will be \$1 million left in the budget for the project. He wanted it clear that it is not all City money, as about \$650,000 is City and the rest is Midway Sewer District's money.

Public Comments - Henry Stahl

City Manager Piasecki advised Mr. Stahl that he will be talking to staff no later than Monday, and will follow up on his comments. He noted that if there is anything that the Council needs to act on, he assured him, he will bring it to their attention.

CONSENT CALENDAR Items 1 through 9, were read by City Clerk Staab.

1. Motion is to approve the special and regular minutes of February 14, 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 #113367 through #113546 & electronic fund transfers in the total amount of \$789,172.88  
    Payroll fund transfers in the total amount of \$325,706.96
3. Draft Resolution No. 08-046 - Title: A Resolution of the City Council of the City of Des Moines, Washington, authorizing the Rotary Club of Des Moines to conduct the "Fireworks Over Des Moines" fireworks event on July 4, 2008 at the Des Moines Marina and Fishing Pier and listing conditions under which such permission is granted.  
    MOTION is to approve Draft Resolution No. 08-046 and to direct the City Manager to enter into an agreement with the Rotary Club related to the provision of support services and amenities for the event substantially in the form as submitted.
4. Motion is to direct the City Manager to execute the Corrected Statutory Warranty Deed, substantially in the form as submitted, conveying 160 feet of aquatic tidelands in the Redondo Beach area, which was previously approved by adoption of Resolution No. 1029.
5. Motion is to authorize the City Manager to sign the 2008 LHWMP Grant No. D379689D between the City of Des Moines and the Seattle-King County Department of Public Health and

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the Professional Services Contract for the 2008-2009 Recycling Program between the City of Des Moines and Olympic Environmental Resources substantially in the form as submitted.

6. ~~\_\_\_~~ Motion is to remand to the Municipal Facilities Committee the projects and topics identified on Attachment 1 as "Recommended Additions to Study Subjects List".

7. ~~\_\_\_~~ Motion is to remand to the Environment Committee the environment and utilities related topics identified on Attachment 2 and to direct staff to prepare a draft resolution to change the Environment Committee's name to "Environment and Utilities" Committee to be placed on the March 27<sup>th</sup> Consent Calendar for a first reading.

8. ~~\_\_\_~~ Motion is to remand to the Finance & Economic Development Committee possible development of an ordinance to deal with homing pigeons.

9. ~~\_\_\_~~ Motion is to authorize a change order to the 16<sup>th</sup> Avenue South construction contract with Scarsella Brothers, Inc. for 300 feet of additional overlay and the extension of the walkway on Woodmont Drive for enhanced pedestrian safety in the amount of \$151,848.50, and to authorize the City Manager or his designee to sign said change order plus authorize the City Manager or his designee to approve adjustments as necessary within the 15% overall project contingency amount previously approved.

~~10. Draft Resolution #08-052 - Title: A Resolution of the City Council of the City of Des Moines, Washington, honoring former Mayor Tom Mannard for his service to the City of Des Moines, and dedicating and declaring March 9 to be "Tom Mannard Day" in remembrance of his life.~~

~~MOTION is to approve Draft Resolution No. 08-052. [Item removed by Mayor Sheckler & acted on under Presiding Officer's Report]~~

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

#### NEW BUSINESS

##### Streamlining City Contracting - Draft Ordinance No. 08-045 Amending DMMC 3.26 - 1<sup>st</sup> Reading and Draft Resolution 08-037 [ASSIGNED NO. 1067] Small Works Contracting Processes

Planning, Building and Public Works Director Fredricks advised that the purpose of this item is to propose two changes to City contracting for small public works and consulting services in order to streamline City contracting. He informed Council that in the year 2000 the State Legislature authorized an increase in the limit that applies to small public works contracting from \$100,000 to \$200,000, noting at that time the City did not choose to increase its \$100,000 level. He stated staff is asking for the increase as it will allow for more efficient contracting, but will not change the way we select the contractor or execute the contract itself. The draft ordinance would accomplish the increase. It would also allow the work to be done a lot more efficiently, and would relieve administrative staff from having to independently develop rosters and go through a rather inefficient process of trying to encourage contractors to submit responses to proposals for work which the City needs done. He pointed out that almost all contracting deals with executing the budget and work program that has been authorized in the annual capital or operating budgets.

In regards to the draft resolution Planning, Building and Public Works Director Fredricks stated it is modeled on a resolution suggested by Municipal Research Service Center (MRSC), who offer services for local agencies and have experts in a number of areas including contracting. He informed Council this process assembles lists of consultants and contractors who want to do work for public agencies. MRSC requires that the contractors and businesses provide all the

State required licenses and certifications so when an agency comes to them they are confident that the business is properly licensed to do business in the State. He informed Council that staff has requested Council approve the draft resolution as our current system is a difficult, cumbersome and inefficient process. He stated this is a win for the City because it will cast a broader net, a win for administrative staff to eliminate unnecessary work and a win for small companies who can go to one place and register one time and be confident that will have an opportunity to submit proposals on work government agencies have in their area of specialty.

**MOTION** was made by Councilmember Kaplan, seconded by Councilmember Scott and passed unanimously, to suspend Council Rule 26(b) in order to consider Draft Ordinance No. 08-045 on a first reading. Motion later **WITHDRAWN**.

**MOTION** was made by Councilmember Kaplan, seconded by Councilmember Scott, to adopt Draft Ordinance No. 08-045 raising the small works roster limits of DMMC 3.36 from \$100,000 to \$200,000 and revising the advertising requirements. Motion later **WITHDRAWN**.

Upon questioning as what is the law on what is our official newspaper, City Attorney Bosmans advised that The Seattle Times is our current official newspaper.

City Manager Piasecki noted that official publications are printed in the Seattle Times, however in this ordinance we are only referring to the publication of small works roster or soliciting names of contractors for such rosters.

Councilmember Thomasson questioned why have section 2 say at "publication as the Director may determine". He felt if we are using MSRC then that should be what is stated.

Planning, Building and Public Works Director noted we probably will use MSRC 98% of the time, but there may be an occasion where we want to do our own and this is written so we can do it either way.

City Manager Piasecki suggested altering the language by adding after the word 'Director' at the beginning of the sentence ". . . or another entity as might be adopted by the City Council by resolution . . ." This was accepted by the maker and seconder of the motion as a FRIENDLY AMENDMENT.

Councilmember Thomasson voiced the opinion that if the City is actually going to use MSRC he felt the whole DMMC 3.36 may need to be rewritten to accommodate that fact. If there is no interest in doing that then he felt we can just adopt the ordinance and not adopt the resolution. Since Council is being asked to adopt both, he feels they are incompatible.

Councilmember Pina felt Council should adopt the ordinance tonight, and have the resolution wait until it is modified to agree with the ordinance.

Councilmember Thomasson stated the ordinance must be changed first as it implements the whole process.

Councilmember Kaplan felt the question is what is the purpose of Section 2, why have provisions that apply directly to Council if we are going to contract with MSRC to do the work.

Planning, Building and Public Director Fredricks felt the ordinance should go back and have the City Attorney re-craft the ordinance to be consistent with the resolution to use MSRC.

Councilmember Kaplan and Councilmember Scott **WITHDREW THEIR PREVIOUS TWO MOTIONS.**

**MOTION** was made by Councilmember Kaplan, seconded by Councilmember Scott, to move Draft Ordinance No. 08-045 raising the small works roster limits of DMMC 3.36 from \$100,000 to \$200,000 revising the advertising requirements to a 2<sup>nd</sup> reading. Motion passed unanimously.

**MOTION** was made by Councilmember Kaplan, seconded by Councilmember Scott, to adopt Draft Resolution No. 08-037 with an effective date after that of Draft Ordinance No. 08-045 superseding in part Resolution 1056 by establishing a new Small Works and Consultant Roster process to award public works contracts and a consulting services roster for architectural, engineering and other professional services, by contracting with the Municipal Research and Services Center.

Upon questioning, Planning, Building and Public Works Director Fredericks informed Council that the MSRC site allows an agency to sort the need for their work by a variety of methods, example: Concrete can be categorized by cutting & sacking, decorative pavement, curbing, etc. to whatever level of detail is necessary. He noted that each department usually handles their own needs, but staff's goal is to have one or two contact individuals for the City as a whole. Upon further questioning, he advised we will need to enter into a contract with MSRC for their services.

City Manager Piasecki noted the fee for MSRC services will run between \$100 to \$200 and he can sign it, but only if Council adopts the proposed resolution.

**VOTE ON MOTION:** Motion passed unanimously.

Mayor Sheckler read the resolution by title into the record.

City Manager Piasecki advised that currently his contracting authority for items that are budgeted is \$20,000, except for the limited engineering contracts Council has already approved. He noted the \$20,000 was established in 1994 and with the effects of inflation it should be \$40 to \$50 thousand. His recommendation, in order to streamline our processes, is to update his contracting authority to \$50,000. He asked Council if this is something staff should pursue.

Councilmember Kaplan stated he would be willing to consider this change, but would like to see what similar sized cities are allowing.

Mayor Sheckler directed that staff prepare a packet item raising the City Manager's contracting authority and furnish Council with information as requested by Councilmember Kaplan.

8:45 p.m. Mayor Sheckler called for a 10 minute break.

Draft Resolution No. 08-003 [ASSIGNED NO 1068] Approval of Graceview Planned Unit Development (PUD) Final Plat

Land Use Planner II Sullivan stated the purpose of this agenda item is to facilitate the Council consideration of the final PUD subdivision entitled "Graceview" located off of S 234<sup>th</sup> and Kent-Des Moines Road. He noted the Council approved the preliminary plat in June 2004 and since that date the applicant has substantially completed, although not completely, the civil improvements that were required to be made. For the few remaining items the applicant has posted a bond as authorized by the Des Moines Municipal Code. All other items, including the Park In-Lieu fee have been paid. He advised that the final plat is substantially consistent with the approved preliminary plat. Therefore staff is recommending that Council approve the final plat authorizing the Public Works Director to sign it and send it to King County for recording.

Councilmember Thomasson informed Council that he had e-mailed questions to staff last night and he requested those questions be answered.

Land Use Planner II Sullivan responded with the following:

- *Were there are substantial changes from the approved preliminary plat?* Answer: No. The final plat is consistent and substantially consistent with is the level required by DMMC.
- *Required Stream Buffers?* Answer: Stream buffers are not required to be shown on final plats pursuant to 17.40.050, nor are any of the other critical areas because the final plat just shows the location of the property lines. Delineations have already been established under the preliminary plat, and they are already in a tract which is deeded to the City. He added further that the preliminary plat documents will be listed on the Zoning Code map, with a reference to the approving documents.
- *Finding 22 from original Resolution No. 976?* Answer: Surface Water Management ponds were built according to the approved civil plans. The layout was consistent with the approved preliminary plat. He displayed a cross section detailing the geo-grid in relationship to the placement of homes, and the erosion control plan.
- *Street Trees?* Answer: The maintenance of street trees is required to be by the home owners per the City's Street Standards. This will also be memorialized in either a separate document or in the covenants and restrictions established for the development. Street trees will not be installed until the homes are constructed.
- *Easement between Lots 11 and 12 only ten feet?* Answer: Code says needs to be 20', however it is a waterline easement. Per the City Attorney we cannot require a developer to put in a 20' easement when the serving utility only requires a 10' easement because there is no justification for the additional taking of property.
- *Park-In-Lieu Fee?* Answer: Agree there should have been an escalation in the amount over the last four years, however Resolution No. 976 and the Environmental Mitigation Agreement when written established a flat fee with no escalation clause.

**MOTION** was made by Mayor Sheckler, seconded by Councilmember Kaplan, to adopt Draft Resolution No. 08-003 approving the Final Plat of 'Graceview', City File No. LUA04-007.

Upon questioning, Land Use Planner II Sullivan pointed out the difference between a traditional steep slope and a created one, is the traditional steep slope is made up of all kinds of different soils where the structural slope is made up of only structural fill.

Councilmember Scott questioned whether the City would be liable for any failure of the structural slope and any damage that might occur.

City Attorney Bosmans advised that the City would rely on the engineering work and the stamp of that engineer on the geo grid.

Land Use Planner II Sullivan informed Council that the footing drains have not been installed because we need to know where the homes will be in order to put in all of the drainage features. So to deal with drainage on a temporary level, there is a required erosion control and it is required of the applicant to maintain it per the approved civil plans.

Councilmember Thomasson noted that the preliminary plat clearly showed a proposed drain along the top of the slope. He felt that a drain that serves multiple lots is a plat improvement, so to say it will be dealt with later as each home is constructed does not tell him it will be dealt with later. He stated if there is not a common easement created through the subdivision, and if that improvement is not built as part of the subdivision, then he can imagine that each property is going to run a pipe down the hill. He has the impression it is not in the ground, but is clearly needed. He questioned what will cause it to be installed and if it is private, how is the City going to deal with the issues that 10 or 12 property owners jointly share the private maintenance requirement of that pipe, and that the property right needs to be created for it to be there. He felt this is needed and should have been built as part of the plat and the easements and provisions for their maintenance should have been put on the plat.

Land Use Planner II Sullivan reminded Council that the preliminary plat does not set out what the final design of the engineered infrastructure is going to look like. He advised there will be a drain in the rear that will go over and tie into South 234<sup>th</sup> and discharge into the City drainage system.

Councilmember Thomasson stated he sees a critical issue with the drainage improvements that are needed to help hold the hillside together that is not in place.

Land Use Planner II Sullivan stated that if we put in the drainage easement in artificially, without looking at per site home basis, you could have a 10' easement in the wrong spot. Then you would have to come back and vacate the easement and design a completely new system. He noted the developer is building out all of the homes, so the developer will control the property until the property is sold. This means he has the right to continue to connect the drainage systems across the slope to tie into S. 234<sup>th</sup>. He stated the drainage is being bonded as one of the remaining items. It is better to install this when we know the final configuration of the homes so that we know that easement and pipe are in the right location. He further noted that the slope stability is an important issue and until the pipe is installed erosion control is required to be there as part of the approved civil plans. The developer has signed an agreement that they will maintain all of the erosion control until the final solutions are in place. If they decide to sell a home before the final solution would be in place they will have to have a conceptual design and get that easement recorded. He further advised that the bonding the City has is higher than actually required due to minor items like this. If Council wants we can ask for a separate bond for the drainage.

After further discussion it was determined a condition will be added to the draft resolution that requires and addresses the drainage improvements with the flexibility to allow for the design and

orientation of such improvements. Land Use Planner II Sullivan also suggested that on the Plat documents a note will be added to say that all of the drainage systems contained on the lots are privately owned.

In regards to the City's requirement of 20 feet for a utility easement, when the utility states it only needs 10 feet, City Manager Piasecki noted that if the City standard is greater than what a utility actually needs, the City would be hard pressed to defend taking more land.

Upon discussion it was determined that staff will add a note that the easement for S. 234<sup>th</sup> will extinguish upon the recording of the Plat.

Councilmember Kaplan noted there is language referring to a four foot split rail fence along the rear lot line of "eastern" lots, and pointed out it is actually the "western" lots. It was acknowledged that this will be corrected.

Land Use Planner II Sullivan advised that radius dedication between South 234<sup>th</sup> and Kent-Des Moines Road is not shown at this point because once the final plat is done and we own the property fee simple, it does not have to be dedicated because the City already owns it.

In regards to dedication of Tract A and Tract X to the City, Land Use Planner II Sullivan advised that the deeds have been prepared and given to the developer and the City will not record the final plat until we have the signed copies of the deeds back.

VOTE ON MAIN MOTION: Motion passed 5 to 0. It was noted changes and clarification to the draft resolution were accepted as FRIENDLY AMENDMENTS by the maker and seconder of the motion.

Mayor Sheckler read the resolution by title into the record.

NEXT MEETING DATE

Mayor Sheckler noted the next regular meeting will be March 27, 2008.

ADJOURNMENT

At 9:45 p.m. Mayor Sheckler declared the meeting adjourned as all items of business were concluded.

Respectfully submitted,

Denis Staab  
City Clerk

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