

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

April 3, 2008

The regular study session of the Des Moines City Council was called to order by Mayor Pro Tem Sherman at 7:32 p.m. in the Council Chambers, 21630 11th Avenue South, #B.

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

ROLL CALL - Present: Mayor Pro Tem Dan Sherman, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, Scott Thomasson and Susan White. Absent: Mayor Bob Sheckler. Also in attendance were City Manager Tony Piasecki, City Utilities & Environmental Engineer Loren Reinhold, Planning Manager Denise Lathrop, Land Use Planner II Jason Sullivan and City Clerk Denis Staab.

MOTION was made by Councilmember Pina, seconded by Councilmember Scott and passed unanimously, to excuse Mayor Sheckler.

DISCUSSION ITEMS

Design Contract for Lower Des Moines Creek Channel Modifications

City Utilities & Environmental Engineer Reinhold informed Council staff has completed the hydraulic modeling and are now ready to move in to the design. He noted the scope has been revised to include:

- Widen the creek area between the vehicular bridge and the Founder's Lodge.
- Do some berming on the north bank of the channel between the Founder's Lodge and the vehicular bridge.
- Put in two sedimentation traps upstream of the Dining Hall
- Construct a debris catcher upstream of the vehicular bridge by installing piling, allowing water to pass but catching any debris.

Upon questioning, Douglas Wright with Tetra Tech, Inc. stated they have done some jobs using a similar debris catcher.

Engineer Reinhold advised that maintenance of the debris catcher will depend upon the spacing of the piles, which still needs to be determined. He noted the Department of Fisheries actually supported this plan. However it has not been determined how much woody debris is being generated upstream and it is felt some of it may be caught by habitat work being done in the stream right now, upstream from the Marine View Drive Bridge. The idea is to get a long term maintenance permit from the Dept. of Fisheries to allow the City to go in after a storm and clean off the piles. He continued review of changes as follows:

- Construction of a flood wall along the southeasterly bank of the channel upstream of the Sun Home Lodge to the vehicular bridge along with minor channel widening.

Upon questioning as to whether this might be a concrete wall, Engineer Reinhold noted it might be, but they are looking more at a berm.

Councilmember Thomasson expressed concern that a berm would eliminate a patio that had been planned for the Auditorium and if concrete is used the trees will have to be removed hurting the

view. He noted while a flood wall is warranted, either a berm or a concrete wall, he questioned who will make the actual decision and at what stage will that decision be made

Parks and Recreation Director Thorell noted while we want the area to look as natural as possible and we have some real restrictions in that area regarding space, we do not yet know exactly what areas will need to have a berm and to what degree. Part of this design study will give Council some of the answers and then the Council will have to decide which impacts create the least environmental issues. She informed Council staff is under a very tight time line to get the work done by June for a 12 to 14 month window of permitting to hit the fish window of 2009.

Regarding the funding, Councilmember Thomasson noted half of this project is being charged to Surface Water Management and half is being charged to the Dining Hall. He noted now the scope has increased to include the protection of the Sun Home Lodge which has nothing to do with the Dining Hall project. He questioned whether the increase in dollars has been charged to the right project and when it comes to construction the same thing. He noted this is a supplemental contract for \$271,051 for a new total maximum of \$329,000.

Engineer Reinhold advised that originally the design permitting was anticipated to be around \$100,000. He stated the increase of \$171,000 is mainly due to all the permit related costs to the project.

Councilmember Thomasson felt that when we are supplementing an existing contract it would be helpful that inside the motion it mentions what the current contract was, when it was approved and that we are increasing it by x amount to a new maximum of x amount. He also noted he is not convinced that we need a 10% contingency for consultant contracts like we do for a construction contract. He further stated it is not clear whether the original contract had a 10% contingency, and does this 10% only apply to the additional funds or the total amount.

Engineer Reinhold noted Council would be giving a 10% contingency on the total amount.

In regards to charging the right project, Parks and Recreation Director Thorell advised that initially this project was to widen the creek and the sedimentation traps were all pertaining to the Dining Hall structure. Over the past few weeks there has been discussion about whether to water proof the Auditorium or try to protect it by berming. She advised that staff can look at the costs associated with that piece of the project and distribute the charges to other projects such as the Auditorium. In regards to the Sun Home Lodge she stated it does have some flooding issues, but the main concern was the Auditorium and staff can determine any increase in funding and charge it to the Auditorium.

Upon questioning about what happens if the City cannot get the permits to dredge the amount that is needed, Engineer Reinhold advised that staff has met with FEMA and the Corps at least twice, and we have heard nothing that would indicate them denying this specific project permit. He felt that it was agreed by all that getting everything dredged out and installing measures to prevent future problems is much better than having to come back every 2 to 3 years and continually dredging the creek out.

Upon questioning, Ben Burke of Adolf and Associates doing the environmental permitting, noted that in regards to wetlands and what constitutes a wetland, the final determination will be made by the Corps of Engineers as they have the Federal authority to make those decisions. However,

having worked with the Des Moines Beach Park for over 10 years, he felt it is very likely that historically much of the area was wet before it was temporarily drained for use, and now has reversed as a natural process, it most likely will be determined to be a wetland. Therefore they have anticipated the need to get some additional permits to fill in the wetland and mitigate for that on site.

MOTION was made by Councilmember Scott, seconded by Councilmember White, to approve the supplemental agreement #1 to the Agreement with Tetra Tech Inc, executed on May 30, 2007, adding the design and permitting for the Lower Des Moines Creek Modifications in the supplemental of amount of \$271,051.00 bringing the new maximum amount payable to \$329,052.00 and authorize the City Manager to sign such supplement substantially in the form as submitted.

City Manager Piasecki noted that since we already have some contingency built into the Plan with the consultant, he does not believe we need another 10%. However, staff will keep a close eye on expenses and come back to Council if it is deemed necessary.

VOTE ON MOTION: Motion passed unanimously.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Kaplan, to direct staff to prepare amendments to the SWM and MCI CIP and include such amendments in the next available budget amendment ordinance. Motion passed unanimously.

Jail Feasibility Study & Interlocal Agreement Concepts

City Manager Piasecki introduced Penny Bartley, Jail Manager for the City of Renton, who will brief Council on where the south end cities are at in looking at solving our jail problems.

Ms. Bartley presented the following information:

Insufficient Jail capacity in South King County

- King County Jails are unable to continue to meet our need for misdemeanor beds

Options

- Continue to compete with other agencies for the limited available bed space - very expensive, little control
- Build Regional or sub-regional jails

In order to meet our 2012 deadline, we must be moving forward now

She advised that the King County Jail contract expires in 2012 and the contract with Yakima County for 440 beds expires in 2010. She noted that in 2006 the cities collectively hired Ricci-Greene to develop a long term feasibility study. She noted that all of the cities need 1,440 beds by the year 2026 to accommodate needs (this includes 37 cities, except for the cities of Kent and Enumclaw). Of those 1,440 beds, 700 of them are needed in the South King County area (in addition to the beds in Kent Jail). A new feasibility study is being undertaken to determine what are the costs in construction of our own jail. Based on that information, a number of the Valley Com owner cities got together and "SCORE" was created which stands for South Correctional Entity to study building a jail together. She noted keys to success include the following:

- "Full Service Jail" - able to accommodate medical, mental health, and management housing
- A unified transportation system is essential
- A unified court system for first appearances and arraignments is essential

- SCORE must provide better control for agencies than current external jails

She noted the SCORE work team is comprised of the cities of Auburn, Federal Way, Tukwila, Kent, Des Moines and Renton. Potential other cities which might join are Burien, SeaTac, Normandy Park, Covington, Maple Valley, Algona and Pacific. She advised that in 2008 the six potential owner cities are going to spend over \$16 million to buy the jail beds that are currently used, averaging out to almost \$107.00 a day per person in jail. In order to determine if it is feasible financially, a study was conducted regarding six items:

- Jail programming model
- Site description, type of property
- Conceptual design of building
- Staffing formulas
- Operational budgets for construction and operations
- Final cost benefit analysis

She informed Council that based on that study a conservative potential operating budget, based upon 800 beds, would be:

- Daily rate is projected at approximately \$96 per day
 - 800 beds @ \$75 per day = \$22,000,000
 - Debt service will add approximately \$21 per day
 - Debt service is projected for 30 years - 100 year facility
- Daily rate could be off-set by revenue from rented beds, reducing rate by 8%
- Cities are paying an average of \$106.97 per day in 2008 for
 - Local jails
 - King County beds
 - Yakima County beds

She continued the study highlights with the following:

- Construction of 808 bed SCORE facility will cost \$89,922,319 (land acquisition, design & site work, construction, furniture & fixtures)
- SCORE daily rate is \$75 + debt service of \$21 for a total daily rate of \$96 (2008 rate)
- SCORE rates are 86% of projected King County rates at 2013 - including debt services
- SCORE rates are reduced to 73% of projected King County rates in 2020

She noted that the SCORE rate is all-inclusive as follows:

- Approximately 11% (\$10.45) is spent on costs that may not currently be charged to existing jails
 - Utilities
 - Facility maintenance
 - Equipment replacement
 - Vehicle purchase
 - Staff uniforms
 - Liability insurance

In regards to the site characteristics needed Ms. Bartley noted the following:

- The site needs to be a minimum of 13 acres
- With potential for expansion site would need 19 acres
- Assumption is site will be located on the valley floor, potentially requiring "pre-loading" and fill above the proposed new FEMA flood plain
- Costs include pile drive foundation system

She noted that construction financing contains a couple of options:

- Cities could pay capital costs
 - Six equal ownership shares of \$14,987,053

- Create a Public Development Authority
 - SCORE issues the construction bonds
 - Cities do not have to issue the bonds
 - Cities would guarantee the bonds
 - Bond guarantee does not impact cities financing ability

In conclusion, Ms. Bartley noted the next steps are:

- Complete the Feasibility Study
- Commitment from owner cities by June 30
- Establish PDA
- Issue bonds
- Site work, review of wetlands on potential sites, cost about \$15,000
- Begin design work, cost \$3.5 million
- Construction, take about 21 months at \$600,000 per month

Mayor Pro Tem Sherman noted staff needs to know if they should continue to participate in the process - Consensus was yes. Is there a preference of equal or proportional participation - Consensus was a little more time is needed to study.

Councilmember White expressed preference for proportional participation, Councilmember Kaplan felt more time is needed to study and Councilmember Thomasson felt proportional participation does not allow enough future beds and equal participation is too expensive.

City Manager Piasecki noted one situation would be that each member city pays a set amount every month (either equal or proportional), and then at the end of the year we do a reconciliation and if we are sending more people than we are paying for we pay more, and if sending less people we would get a refund.

Ms. Bartley advised that the Finance Director's, City Manager's and Mayor's of the participating cities are also reviewing participation formulas and some are much more complicated.

At 9:18 p.m. Mayor Pro Tem Sherman announced that Council will take a 10 minute break and at 9:28 p.m. Council will go into an executive session to discuss Real Estate matters for approximately 5 minutes.

Executive Session

Mayor Pro Tem Sherman called the Executive Session to order at 9:28 p.m. in the City Hall conference room, for approximately 5 minutes to discuss real estate matters, about which public knowledge might have an adverse impact on price to the detriment of the City.

No formal action was taken

Adjournment

At 9:32 the Executive Session was adjourned and Council reconvened into an open regular meeting.

Zoning Code Update

Planning Manager Lathrop noted at the last meeting Council finished going through the Division 3 environment section. One issue that came out of that discussion relating to organizational changes was whether or not it made more sense to put the Commute Trip Reduction (CTR) Plan

into Title 12 versus Environment, she advised that our Transportation Engineer had no real preference and that most surrounding jurisdictions had the CTR Plan in their transportation section in their Codes. However she noted the CTR Plan was adopted as part of the Clean Air Act therefore it was put into the Environment section because it had more of an environmental focus in improving air quality. Therefore she felt it is up to Council for preference.

Consensus was to place the CTR Plan in the Transportation section of the Code.

Planning Manager Lathrop noted the next issue was proposed Amendment 1, dealing with dimensional requirements and Council asking where else this occurs. She advised this also is in wetlands and streams. The intent was to provide guidance on the extent to which setbacks could be adjusted in order to protect the critical area while allowing for reasonable use of a persons property. She noted that in the revised Critical Areas Ordinance, provisions for adjustment to dimensional requirements were separated out for wetlands and streams. These provisions were inadvertently omitted from the section on ravine sidewalls, bluffs and hillsides of 15% slope and greater. She advised that revised text amendments will be brought to council for consideration after the Zoning Code reorganization is complete.

In regards to proposed Amendment 2, Council requested staff show where discussion of 4,000 square feet occurs elsewhere in the Critical Areas Ordinance. Planning Manager Lathrop noted the reference to the 4,000 sq. ft. relates to the minimum Buildable area that can be created in a single family zone when establishing environmentally critical area tracts or easements. Land Use Planner II Sullivan added this reasonable use exception addresses the extent to which development of a single family dwelling can occur within a wetland or stream buffer to allow reasonable use and protect private property ownership rights.

Planning Manager Lathrop proceeded to being review of the Division 4: Land Development. She advised the purpose is to group all of the code sections relating to land development into one section of the code. She displayed a Zoning Code Conversion table depicting existing zoning code and the reformatted code as follows:

Existing Zoning Code	Reformatted Code
Chapters:	Chapters:
18.32 Unclassified Uses	18.164 Unclassified Uses
18.52 Planned Unit Development	18.132 Planned Unit Developments
18.58 Design Review	18.168 Design Review
18.60.020 Unclassified/conditional use Per.	18.160 Conditional uses
18.61 Waiver of Zoning Requirements	18.156 Variances
18.94.310 Variance criteria	18.156 Variances
18.94.320 Conditional Uses - criteria	18.160 Conditional uses
17.04 Introduction	18.116 Introduction
17.12 Short Subdivisions	18.120 Short Subdivisions
17.16 Subdivisions	18.124 Subdivisions
17.20 Modified Subdivisions & Short Subdivisions	18.128 Modified Subdivisions & Short Subdivisions
17.24 Alteration & Vacation of Plats	18.136 Alteration & Vacation of Plats
17.28 Lot Line Adjustment	18.140 Lot Line Adjustment
17.32 Binding Site Plan	18.144 Binding Site Plan
17.36 Layout & Design of Subdivisions &	18.148 Subdivision layout & Design

Similar Requirements	Requirements
17.40 Miscellaneous Provisions	18.152 Subdivision Application Materials & Bond Provisions

She and Land Use Planner II Sullivan proceeded to review the above noted chapters as follows:

- Chapter 18.32 Unclassified Uses - No text amendments are proposed.
- Chapter 18.52 Planned Unit Development - No proposed changes.
- Chapter 18.58 Design Review - No proposed changes.
- Section 18.94.310 Variance Criteria - No proposed changes.
- Section 18.94.320 Conditional Uses - Criteria - No proposed changes.

Title 17 Subdivisions

- Proposed Amendment 1 - In all chapters of Title 17, the term "planning official", "public works director" or "community development director" will be replaced with the term "City Manager or City Manager's designee".
- Proposed Amendment 2 - Chapter 17.04 should be modified in the following manner:
 - Title of Chapter should be changed from "Introductions" to "Exemptions"
 - DMMC 17.04.010 Short Title should be deleted
 - DMMC 17.04.020 Purpose should be combined with the new proposed section in the Administration chapter
 - DMMC 17.04.030 Applicability should be renamed "Exemptions"
- Proposed Amendment 3 - In all chapters of Title 17, the mandatory processing time period limits should be removed and combined into the new Land Use Review Procedure chapter.
- Proposed Amendment 4 - All chapters of Title 17 for filling/vesting should be removed and combined into the new Land Use Review Procedure chapter.
- Proposed Amendment 5 - Staff recommends that the additional definitions in 17.4 be moved to the new Definitions chapter in new code 18.08.

In regards to Amendment 5, Councilmember Thomasson expressed some concern about definitions, in that separate parts of the Code such as zoning and subdivision each have a definition for lot and they mean two totally different things as they relate to different processes and procedures.

Land Use Planner II Sullivan recognized this concern but feels there is a need for consistency in definitions, however he felt terms such as lot, tax parcel or building site may each require their own definition, but they should all be in one section, in alphabetical order.

Councilmember Kaplan added that some of the definitions may be driven by how State law defines them in the RCW.

- Proposed Amendment 6 - Staff recommends that the Notice section in DMMC 17.40.070 be moved to the new Land Use Review Procedures chapter 18.12.
- Proposed Amendment 7 - Staff recommends that the Enforcement section in DMMC 17.40.120 be moved to the new Administration chapter 18.04.
- Proposed Amendment 8 - Staff recommends that the Amendment Chapter 17.44 DMMC be combined with new Amendment p)Procedures section in new Administration Chapter DMMC 18.04.
- Proposed Amendment 10 (ED NOTE: Taken out of order) - Currently filling final short plat documents requires all final short plat documents are submitted within 6 months from the date that the preliminary plat was issued by the City. Staff recommends increasing the period

to 3 years, to provide sufficient time for City staff to review civil plans and for the applicant to install the required improvements without having to receive extensions.

Councilmember Thomasson remarked that the difference between short plats and plats has a lot to do with State law.

Land Use Planner II Sullivan commented that State law is rather silent on short plats, but staff needs to make sure that the road and lot layouts meet all of the subdivision requirements before the applicant spends thousands of dollars on design and engineering.

Councilmember Thomasson questioned whether we can create a short plat approval process when the State law does not provide for one.

Land Use Planner II Sullivan advised that the State law does not forbid creating one. He noted this will be discussed more with the City Attorney before staff makes its final recommendation.

- o Proposed Amendment 9 - Dealing with preliminary subdivision approval and driven by design and engineering (1) General and (2) Construction of Certain Improvements.
- o Proposed Amendment 11 - Clarifying language regarding applicability to each subdivision, short subdivision and subdivision alternation and, to the extent possible, each binding site plan, modified subdivision and modified short subdivision.

In regards to Amendment 11, Councilmember Thomasson felt it is not appropriate to add planned unit developments because not all planned unit developments are subdivisions. He requested this be researched.

- o Proposed Amendment 12 - Staff recommends text amendment to 17.26.020 Lot Standards (1), (2), (3), (4), (5) and (6). Only change is to (2) Configuration to increase . . . "twice" to 'two and one half times' the width of the lot.

Comments from Council and staff regarding Amendment 12 (2) were:

- Councilmember Thomasson - not sure it really adds anything. Not opposed, but not sure there has been enough analysis.
- Land Use Planner II Sullivan - may just delete 2nd sentence, so it is just the configuration - lots shall be shaped so that reasonable use and development is possible.
- Councilmember Scott - we should not be restrictive, but need to be reasonable.
- Councilmember Kaplan - feels there is a maximum somewhere, but does not know what the threshold should be.
- Mayor Pro Tem Sherman - staff needs to comeback with a possible recommendation as to the ratio, and the benefits.
- Councilmember Pina - feels there should be a definite number.

Planning Manager Lathrop concluded the presentation by informing Council at the next briefing staff will be reviewing Division 5 the general provisions section and then the big work ahead is to look at the zoning districts and use tables. She advised staff will first bring the table format and types of information that may be included and then staff will take the existing code and put it into the table format and begin talking about potential content changes.

Year End 2007 Financial Report

MOTION was made by Councilmember Thomasson, seconded by Councilmember Kaplan and passed unanimously, to move this agenda item to a Council date to be determined by Mayor Sheckler.

NEXT MEETING DATE

Mayor Pro Tem Sherman noted that the next regular meeting will be April 10, 2008.

ADJOURNMENT

At 10:28 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Thomasson and passed unanimously, to adjourn.

Respectfully submitted,

Denis Staab
City Clerk