

## REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

July 3, 2008

The study session of the Des Moines City Council was called to order by Mayor Sheckler at 7:32 p.m. in the Council Chambers, 21630 11<sup>th</sup> Avenue South, #B.

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

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, City Transportation Engineer Dan Brewer, and Director of Planning, Building and Public Works Grant Fredricks.

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

### CONTINUED PUBLIC HEARING

Highline View Estates Modified Subdivision - Draft Resolution 08-073 and Draft Ordinance 08-074  
[ASSIGNED NO. 1432- First reading

Jason Sullivan, Land Use Planner II, stated that this Modified Subdivision was brought before the Council previously but due to time constraints the Council portion was not able to be completed.

Councilmember Thomasson raised some issues with of proper vacation of land.

City Attorney Bosmans restated the question for the record. The issue was with regards to the right-of-ways along 22<sup>nd</sup> Avenue South and also along 241<sup>st</sup>. In reviewing Mr. Murphy's opinion, she believes it to be accurate. City Attorney Bosmans further reviewed ordinances and the Washington State Barn Use article and concluded that the burden of proof can not be met by either side. The question then becomes what evidence can be used to determine proper vacation. One piece of evidence is that the City has run utilities down 22<sup>nd</sup> and 241<sup>st</sup> without an easement, so that meant the City thought it had the right to do that without an easement. The lack of the easement indicates that it had not been vacated to an abutting property owner. This is the same conclusion reached in Mr. Murphy's opinion and Ms. Bosmans believes that is a proper interpretation of the law.

Councilmember Thomasson inquired as to what utilities are in the roads.

Ms. Bosmans responded by saying she believed it was a storm sewer on 22<sup>nd</sup> and both sewer and water were installed on 241<sup>st</sup> Street.

Councilmember Thomasson's concern is for the citizen who may own land by vacation and not be aware of that and to make sure the citizen is treated fairly.

Attorney Bosmans stated that this issue is before the Council on a petition, which is an appropriate method and within the method is the notice requirements.

Councilmember Thomasson clarified the inquiry by stating the issue of concern was with the likely vacation of 22<sup>nd</sup> Avenue South and the property owner of that block nineteen not knowing that he has rights relative to the property.

Mr. Sullivan stated that are no city utility lines on 22<sup>nd</sup> Avenue, there is a storm water line along 214<sup>th</sup> Street.

As part of the preliminary plat public hearing, property owners within 300 feet were notified and a map was included with that notice.

Councilmember Thomasson is raising the issue just to make sure there will not be any backlash in future years if property owners are not made aware of their rights.

Councilmember Scott stated that before 1912 there were no motor vehicles in Des Moines, so there were only trails, not roads. Council may not be able to determine if land was vacated, but the title companies may have plat maps indicating ownership.

The streets within the subject property were vacated by law according to King County records.

The Mormon Church vacated 22<sup>nd</sup> Place and was specific to that street.

Michael Murphy, 300 Pine Street, Seattle, counsel for Lakeridge Development, Inc. stated that 22<sup>nd</sup> Place and 22<sup>nd</sup> Avenue South was vacated by the Mormon Church, but those areas are not at issue. Vacation is done with the Courts. The critical issue on automatic vacation is burden of proof. The issue is not whether it was improved; the issue is whether it was open and available to the public and has been regularly used for many years. In this case the only evidence that exists is that the area has been open and in regular use.

Dan Brewer, Transportation Engineer, considers the cross sections more schematically. During the civil design process a more detailed plan concerning pavement standards would be looked at.

Councilmember Kaplan sites on page three of the plans that improvements on 241<sup>st</sup> and 242<sup>nd</sup> are suppose to help people living on 22<sup>nd</sup> Avenue and 22<sup>nd</sup> Place and requests clarification on how those improvements helps those residents.

Staff responded that homes on 22<sup>nd</sup> Place will not have any direct benefit, but the improvements do offer more options to the residents.

Mayor Sheckler closed the public hearing.

**MOTION** was made by Councilmember Pina to suspend City Council Rule No. 26B for adoption of the draft Ordinance 08-074. Seconded by Councilmember Kaplan.

Councilmember Thomasson comments were concerning if any compensation is being provided and if the 10 foot easement is reserved in the resolution. Staff agreed and confirmed that there is no compensation as stated in Sub 3 of section 1.

**VOTE ON THE MOTION:** Motion passed 5 – 1 with Mayor Pro Tem Sherman opposed.

**MOTION** was made by Councilmember Pina to adopt draft Ordinance 08-074 approving the request to vacate certain portions of the right-of-way streets specifically identified and legally described in said ordinance.

Councilmember Thomasson, in referring to the site map page 2 of 11, feels that the south half of the vacated land should be reserved in the resolution. Staff noted that upon speaking with applicant there was an oversight on the map and the maps will be changed in reference to the utility corridor exceeding through the vacated right-of-ways to the southern property lines.

**MOTION** was made by Councilmember Pina to adopt draft Ordinance 08-074 approving the request to vacate certain portions of the right-of-way streets specifically identified and legally described in said ordinance and as modified by staff as discussed. Seconded by Councilmember Kaplan.

**VOTE ON THE MOTION AS AMENDED** motion passed 5 -1 with Mayor Pro Tem Sherman opposed.

Mayor Sheckler read Draft Ordinance No. 08-074 by title into the record.

**MOTION** made by Councilmember Kaplan to approve the proposed Draft Resolution 08-073 Highline View Estates Modified Subdivision entitled Highline View Estates subject to the 13 additional conditions for approval including the June 12, 2008 Administration Report, City file No. LUA07-004. Seconded by Councilmember Pina.

Mayor Pro Tem Sherman made reference to the packet item page 7, No. 8, discussing the decreased lot sizes. In a RS7200 zone 6.5 dwelling units per acre are allowed and in this case there are 7.2 dwelling units per acre in a RS7200 zone within this plan and that increases the densities by 20% more than should be allowed.

Councilmember Kaplan understands Mayor Pro Tem Sherman's concerns. The reality is that housing is needed and there is only so much land available to build on so smaller lots are needed to keep housing affordable.

**VOTE ON THE MOTION** to approve Resolution No. 08-073 passed 5 -1 with Mayor Pro Tem Sherman opposed.

Mayor Sheckler read Draft Resolution No. 08-073 by title into the record.

#### **Multi Family Property Tax Exemption**

City Attorney Bosmans provided the Council with information regarding the Multi Family Property Tax Exemption. The Council may then decide, as a matter of policy, if an Ordinance should be prepared and presented at a future Council meeting.

Mayor Pro Tem Sherman felt the city does not need to simulate more affordable housing; the city has enough and does not see the need to forgo property tax collection.

Councilmember Scott agrees with this opinion and feels Council would need more information to make an informed decision.

City Manager Tony Piasecki noted that this would not have to be city wide but can be targeted to certain areas.

The consensus of the Council is to not move forward with this issue.

#### Comprehensive Transportation Plan Update

Dan Brewer, City Transportation Engineer, gave Council a briefing and a hand out on the presentation. Transportation Consultant, Ms. Cassidy, outlined the key components needed to have the transportation plan ready to update by the end of the year.

1. Need to identify future needs and translate those into future projects.
2. Look at planned growth for 2030.
3. Transportation network to accommodate the projected growth of the city.
4. Level of service standard.

There will be more employment identified with Des Moines Creek Business Park, Pacific Ridge, and Downtown as well as the Pacific Highway corridor. More homes are also being built in the area that will also need transportation. In the packets given to the Council, the employment growth in the zones was denoted by color codes.

Councilmember Thomasson requested more information on the TAZ zoning and Ms. Cassidy explained they have broken the large TAZs into more manageable sizes to make it more tailored to Des Moines. PSRC doesn't agree with the growth projection, Council can give feedback to have these numbers changed.

City Manager Tony Piasecki suggested talking to the City of Kent and inquire if they want to be incorporated into the model.

This model deals with growth and housing but not necessarily land uses. Contact will be made with Kent and Sea-Tac to make sure they are included if needed.

Different zones have different types of traffic and the number of jobs in one zone may not correlate with the increase in the traffic generated. Different areas may have different numbers and types of vehicles, so the numbers will not always be as accurate.

Councilmember Scott in looking at the growth projection, sees that some policies may needed to be in place in the future.

Mayor Sheckler leaves the meeting at 8:45 p.m.

City Manager Tony Piasecki interjected that the concerns Councilmember Scott was expressing are in the works for upcoming meetings. This first step is to find out if Council is on board with the numbers for the growth projection, the next step is what kind of network improvements are needed to deal with the possible traffic issues. City Manager Tony Piasecki posed the question to the Council; is the Council comfortable with the direction and the predictions on growth?

Councilmember Thomasson inquired as to how the staging and incremental improvements are going to be handled in terms of staging projects. In the next six years, Highway 509 will not be built, but it may be in the next 20 years. The Council should look at the street improvements that would work with the 509 project so that the network of streets being put in now would correlate with the new highway should 509 be built.

Ms. Cassidy agreed with Councilmember Thomasson that Highway 509 should be looked at when building new roads. There could be some common projects with the 509 build should it happen

Councilmember Kaplan feels overbuilding now is a good idea because there will be, as time continues, more road that will be needed. It would be easier to plan more roads now than in the future.

Councilmember Scott feels the streets should be coordinated now before the 509 project comes to town, so that when it does show up, there is a plan to work with the new highway.

Mayor Pro Tem Sherman called a 10 minute recess at 8:57 p.m.; he reconvened the meeting at 9:07 p.m.

Ms. Cassidy resumed her presentation by checking with Council to see if they feel comfortable about going forward with the growth, housing, and job assumptions to be augmented with an update for Kent and the Sea-Tac zones. The Council responded positively.

Councilmember Pina suggested that the plan should look at what would happen if the 509 came in and if it didn't and then find projects in common that are going to be needed no matter what happens with the 509 project.

Ms. Cassidy thought that was an excellent choice and that is the potential network for 2030 that needs Council support to be tested. What is now in place is a predominantly 2 -3 lane roadways, with 7 lanes on Pacific Highway. The numbers will be run with and without 509 to understand what is the list of common projects. The possible improvements consist of widening extensions, enhancement, and spot improvements for congested intersections. Enhancements would include sidewalks and bicycle lanes.

Councilmember Kaplan identified the pieces that are in discussion as the new road links, the extension of 16<sup>th</sup> to 216<sup>th</sup> South, and then traffic flow issues at the south end of town. Because of the limitations DOT put on Federal Way improvements there has been discussion of a link to Pacific Highway and 16<sup>th</sup> Street. The three pieces of this of these extension plans are 16<sup>th</sup> Street, connecting 200 to 216 and extension of 24<sup>th</sup> Avenue to connect with Sea-Tac.

Councilmember Scott spoke about the level of service, explained to the audience that the key for levels of service are A-F, A being smooth to F being gridlock. In the standards on some of the intersections, several areas are on D, which seems a very low rating.

City Manager Tony Piasecki states that standards are the next agenda item.

Ms. Cassidy agrees and stated that growth expected, network expected, level of service, and guidelines for access all need to be considered when approving development and approving the transportation plan.

Councilmember Thomasson talked about Sea-Tac and what is being considered as improvements between 192nd and 188th. Is there an assumption that Sea-Tac will be improving that area?

Ms. Cassidy stated that the traffic model needs to run with Des Moines planned and funded improvements and what is planned and funded outside of Des Moines and currently Sea-Tac does not have any identified projects for 200<sup>th</sup>. The model is also expanded to run with some “what if” projects and what can help accommodate that plan. The current network will be overwhelmed with the degree of growth that is expected.

Ms. Cassidy states that in talking with Sea-Tac staff, they are reluctant to connect 24<sup>th</sup> and 28<sup>th</sup> without Highway 509.

Councilmember Thomasson feels that it would be difficult to turn Des Moines Memorial Way as well as 1<sup>st</sup> Avenue, Marine View Drive through the park, into a three lane road. To the extent that 16<sup>th</sup> is being connected on the North end of the street, does 16<sup>th</sup> become much more than it is? Can making that connection significantly impact the traffic on that road?

Councilmember Scott feels it would increase the traffic and possibly have a negative impact on the neighborhoods.

Councilmember Thomasson would like to see an analysis for the traffic on 16<sup>th</sup>. At a Mid-Way meeting he attended, there was discussion about extending 240<sup>th</sup> across the freeway as another east-west connection especially if that is a light rail stop. This would not be an intersection, just a cross over and connect Military Road with Highway 99. It would not happen until 509 went in but it could become part of that project. He asked how does the light rail and bus rapid transit affect traffic generation with the Park and Ride at 240<sup>th</sup>, and how is it reflected in the model?

Ms. Cassidy stated that the model will reflect RapidRide on 99 and light rail coming to 176<sup>th</sup> and maybe to 200<sup>th</sup>, but not beyond that at this point in terms of evaluating vehicle trips.

Councilmember Thomasson inquired as to why the model would not consider anything south of 200<sup>th</sup> and City Manager Tony Piasecki stated that there is no funding to go beyond the airport.

Ms. Cassidy said the model is more qualitative than quantitative, but they are trying to reflect as many “what ifs” as possible and will come back to the Council with a list of options to review. She introduced Don Sandal to continue with the presentation.

Mr. Sandal spoke about level of service and is looking for guidance for the methodology. LOS is used for monitoring performance of street systems, planning new facilities, and regulating development. Current policy in the City is level D with some exceptions. The current policy does not give time frames to apply LOS or where it should be applied, with some exceptions. Some of the intersections are getting close to the standard. Some of the collector distributor streets where they connect with highway 99 are exempt from concurrency.

The next step is to keep the basic level of service in place, define peak hour conditions to be measured, measure LOS separately for side streets approaching major arterials, and set maximum acceptable delay LOS F intersections. There will be more suggestions about which peak hours to look at, most likely in the afternoon commute hours. The consultants will come up with some

ideas on how to measure LOS on side streets that connect with arterials to see if Council would like that to be done and results given at the next meeting.

Councilmember Kaplan stated that this has been talked about in Public Safety and Transportation meetings and thought it would be a good idea because different streets will have different impacts, so each should be measured accordingly.

Councilmember Thomasson states that the Regional Transportation System is broken and 509 needed to be built years ago. Ideal level of service would be assuming 509 is built out then LOS would be a C, but if C was adopted, no new building permits could be issued. A long term LOS is needed with 509, but in the interim a LOS is needed without 509 that would not restrict building in the region. What is needed is balance and any improvements that can be written into the standards would be great, as long as levels of standards do not restrict the issuing of building permits.

Councilmember Pina feels that with a timing study on 99 between 216<sup>th</sup>, Kent-Des Moines Road and 260<sup>th</sup>, it could be possible to have more green time and decrease the backup on those streets.

Councilmember Thomasson states there is a point where nothing more can be done to improve roads and still allow growth.

Councilmember Kaplan feels that Des Moines is a long way from not allowing any more building and there are still many rural roads that can be improved in the area that will allow for development. Des Moines is almost built out, so there are not many more anticipated projects in the pipeline. The system needs to be upgraded to allow for what is here presently and what is anticipated in the future.

Mayor Pro Tem Sherman asked the Council for thoughts on having a worse case scenario brought back to the Council when the results are brought in. The consensus was to have a worse possible LOS case scenario to be brought back to the Council.

Councilmember Scott feels rising gas prices should be a piece of the model to be a holistic model.

Councilmember Thomasson feels that one intersection that needs improvement is 272<sup>nd</sup> and Highway 99. Clearly there is a lot of traffic that exits the freeway there and drivers need to be encouraged to drive on Highway 99 from there.

Staff is working with BRT route and Kent to look at a pedestrian signal at 268<sup>th</sup> to allow people to get over to the BRT route with more ease.

Councilmember Kaplan expressed his disappointment that the signal light for Redondo Way was removed from the plan. He inquired of Staff when the studies for the corridor will be finished.

Staff responded that the studies should be available in late August or September.

#### Sound Transit Phase II Resolution

City Manager Tony Piasecki stated that the City of Federal Way adopted a resolution to adopt a new version of Sound Transit similar to this resolution for light rail.

Grant Fredricks, Director of Planning, Building, and Public Works, brought the Council up-to-date and ask for the Council to reconsider its position with respect to Resolution 1073. The Sound Transit Board is considering public hearings on two options on sales tax increases. The most recent option would be a 5/10 of 1% sales tax increase for a 15 year plan that would allow for light rail to go from Highline Community College to 272<sup>nd</sup> with some right-of-way access with the purpose of eventually reaching Tacoma with a mid-point check in with the voters. The check in with the voters is to ask if Sound Transit can continue with that taxing authority to complete the project. The question before Council tonight is should staff draft a Resolution to supersede 1073 that would express support as a Council and as a City for this 5/10 of 1% sales tax increase 15 year plan to allow the extension of link light rail to 272<sup>nd</sup> with these other commitments.

Councilmember Thomasson would support Sound Transit taking that packet to the electorate for a vote and that's different than the Council taking a position on a ballot proposition.

Mr. Fredricks stated the resolution would be framed to the Board asking that if they choose to go to the voters this year, that the proposal in the ballot be the 5/10 of 1% to extend light rail to 272<sup>nd</sup>.

Councilmember Thomasson wished to clarify that the Council is only supporting an option, not the ballot proposition itself.

Councilmember Kaplan feels the voters have already expressed their opinion in the original ballot. Light rail is going to be on the east side and the proposal that Federal Way has come up with provides Des Moines with two stops.

City Manager Tony Piasecki stated that based on his discussions with Federal Way, they have that parking garage downtown and are looking for ways to say they support ST2 and the key word is "commitment". The previous proposals did not provide enough commitment by Sound Transit that they would take the rail all the way south to Tacoma. However, if the commitment includes building it to 272<sup>nd</sup>, and most critically making sure there's enough funding to allow preliminary engineering and corridor determination designation and some key property purchases, Federal Way Council felt that would create enough commitment from Sound Transit and they would push hard to get the light rail all the way to Tacoma.

Mayor Pro Tem Sherman summed up the City position as unchanged, that it wants Sound Transit to make good on their original promise which is to connect Seattle and Tacoma as that was going to be the main spine of the system. The City has not changed that position, but would not take any active roll in opposing taking the ST2 down to 272<sup>nd</sup> Street.

Councilmember Pina has no problem with developing the light rail to 272<sup>nd</sup> Street.

Councilmember Thomasson is not opposed to the position Mayor Pro Tem Sherman suggested. It would be a good idea to have a graphic made that shows the break down of the sales tax dollars.

City Manager Tony Piasecki stated the tax does last forever, however the size of the tax goes down when bonds are paid off, leaving only operating subsidy. The key is that in order to spend money for projects, they need to get the projects approved and if there's an additional tax

needed, that is approved, the tax approval is open ended. However, if there are no approved projects for Sound Transit to do, they only need to provide enough money for the operating subsidy. The system is not only light rail; it's the Sounder and the express busses.

There seems to be a consensus to have a resolution that tells Sound Transit that it is important that light rail goes to Tacoma and that would include a package that would bring it to 272<sup>nd</sup> Street. While Des Moines may not say this is the ultimate and they will support it, they would not be against it. Maybe a comment or two could be included in the resolution about how Sound Transit has expanded the scope with the additional park and ride lots and that the expansion to the east side is disappointing because that is what has not allowed it to go to Tacoma in the first place.

According to City Manager Tony Piasecki, King County Councilmember Patterson is looking for more support from the cities in her district, something more like what Federal Way adopted. This proposed resolution may not create enough of a positive for Councilmember Patterson; however, based on everything that has been said, does Council want something drafted for review by Thursday?

Staff has direction to draft a resolution and it will be scheduled for the next regular meeting of July 10, 2008. At that time, Council can review and make a decision on where to go from there.

Councilmember Patterson also relayed to City Manager Tony Piasecki that the original item that was on the ballot back when this project was started, was not a light rail system all the way from Northgate to Tacoma. It was to be built from Seattle to the Airport. Then the next thing that was to happen would be to ask the voters to extend it to Tacoma. That's what happened in the election last year and that measure failed.

#### ADJOURNMENT

At 10:20 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Pina and passed unanimously, to adjourn.

Respectfully submitted by

Lady of Letters, Inc.