SPECIAL MEETING DES MOINES CITY COUNCIL

MINUTES November 16, 2004

The special meeting of the Des Moines City Council was called to order at 7:33 p.m. by Mayor Sheckler in the Council Chambers, 21630 11th Avenue South, Suite B.

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

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Richard Benjamin, Gary Petersen, Dan Sherman and Susan White. Absent: Councilmember Maggie Steenrod. Also in attendance were City Manager Tony Piasecki, City Attorney Linda Marousek, Finance Director Paula Henderson, Finance Manager Peggy Watson, Harbormaster Joe Dusenbury, Public Works Director Tim Heydon and City Clerk Denis Staab.

MOTION was made by Councilmember Benjamin, seconded by Councilmember Sherman and passed unanimously, to excuse Councilmember Steenrod.

Agenda Topics

City Attorney Marousek announced that since tonight's meeting is a special meeting the only items that will be discussed are those that were advertised. She noted that since there are no Comments from the Public tonight, Mayor Sheckler has determined that if citizens wish to comment on any of the Agenda Items, he will allow comments prior to Council's discussion of the item.

OLD BUSINESS

Preliminary 2005 Budget

Finance Manager Watson began discussion on the following items with comments as noted:

Marina Revenue Fund

Harbormaster Dusenbury reviewed budget changes to Administration, Service and Maintenance as provided in Council packets.

Upon questioning by Councilmember Benjamin, Harbormaster Dusenbury noted that the Dept. of Correction's crew will be doing the high maintenance projects for the Marina, which will enable them to be done more often and more thoroughly, resulting in a savings of approximately $50 to $60 thousand a year. This will include public restrooms, parking lots, Redondo Plaza and the Fishing Pier.

Upon questioning by Mayor Pro Tem Thomasson, Harbormaster Dusenbury advised that the parking pay station is for the north lot only. He noted that there is a long term agreement with Anthony's that allows them to park for free throughout the Marina.

Marina Repair & Replacement Fund

Harbormaster Dusenbury advised that this is fully funded at $304,337.

Surface Water Management Fund
Public Works Director Heydon reviewed budget changes to Engineering and Maintenance.

Equipment Rental Operations Fund
Public Works Director Heydon reviewed the vehicles to be purchased in 2005. He informed Council that he has located a John Deer backhoe off of the State Bid for $56,000, with a trade-in from the old backhoe at $6,700. He distributed a copy of the state bid for Council's review. He advised that he is pursuing the company that Councilmember Steenrod had mentioned to see what kind of a trade-in they may offer for purchasing a new back hoe through them.

Upon questioning, Public Works Director Heydon acknowledged that five police vehicles were recently replaced. He reminded Council that there was a year or two where no police vehicles were replaced and that the fleet is getting pretty old.

Computer Equipment Operations Fund, Computer Equipment Capital Fund and the Airport Defense Fund
Finance Manager Watson reviewed the budget changes to the three funds.

Police Drug Seizure Fund
Finance Manager Watson noted that the $25,000 transfer-in from the Revenue Stabilization Fund is to pay for a patrol, narcotic and canine vehicle.

Police Chief Baker informed Council that after several years of service with the Drug Enforcement Administration Task Force (D.E.A.), a Des Moines Police Officer will be returning with what is known as about the best narcotics detection dog in the business. He noted that this officer will be assigned to patrol, but must have a vehicle designed to accommodate the dog. He advised that it is rare for a law enforcement agency to have the capability to detect drugs in the field and we will share this with other cities along the highway corridor. He further noted that the officer and the dog will still be available when needed by the D.E.A.

Upon questioning, Finance Director Henderson stated that the Drug Seizure Fund is a general governmental fund. She further noted that the $25,000 will be paid back to the Revenue Stabilization Fund from the General Fund.

City Attorney Marousek informed Council that there are statutory limitations on what the Police department can do with seized money or property. She advised that a vehicle that was purchased with general fund money and identified as such, might be read as not qualified by State auditors to be purchased with drug fund money.

Finance Director Henderson advised that there is money currently available in the Revenue Stabilization Fund and that is why this fund was picked.

Upon questioning by Council, Chief Baker stated that the dog was given to us by D.E.A., along with a kennel at the officer's home, in kind, for excellent service by our officer. He noted that the dog is inseparable from the officer. He further noted that the dogs active duty will be somewhere between 3 to 6 years. He advised that he will asses the productivity of having the dog before recommending the program be continued. He noted that he will bring "Bobbi" to a future Council meeting for introductions.

Finance Manager Watson continued by reviewing the following funds: *Mt. Rainier Pool Contributors*, *Revenue Stabilization* and the *Facility Repair and Replacement*.

Self Insurance Fund
Upon questioning by Council, City Manager Piasecki stated that Washington Cities Insurance Authority reviews rates for liability based on a review of each cities history over the past three years. Our increase is based on the fact that our history is a little bit worse than the average. He also pointed out that in general, costs regarding property are on the rise. He advised the rate is adjusted each year, either up or down.

Finance Manager Watson concluded her presentation by reviewing the *Unemployment Compensation Fund* and *Debt Service*.

Use of One-Time Revenues
Finance Director Henderson reviewed the uses for one-time revenues in the total amount of $1,179,734. She noted she has left a blank for the operating budget gap.

Upon questioning by Council, Police Chief Baker advised that the Spillman Hardware and Software Upgrade has been reported by other agencies to work very well. He stated that he is confident that it is very competitive and that this system will provide a direct communications link with the Valley Com system to provide real time data analysis. He noted this new system will bring the entire Police department together and make the information available to all the department staff.

City Manager Piasecki called Council's attention to the sheet distributed to Council for the general and street funds budget balancing strategies. He advised that this has been updated based on Council adopting the Rental Property Crime Free Program last week. He pointed out that there is still a budget gap of $1,053,867. He noted that every time there is a new revenue source or more cuts, this sheet will be revised.

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

NEW BUSINESS

Draft Ordinance No. 04-229 Parking Tax - 1st Reading

Mayor Sheckler introduced the subject and advised that he will allow the two individuals who signed up to speak, to do so at this time.

Public Comments

Josh Oakley, Highline Community College Student

Mr. Oakley questioned whether Highline Community College would be impacted as the College is owned by the State. In regards to Section 4(2) of the draft ordinance he noted that RCW 80, Section 30(5) states that "payment may be monthly, quarterly or annually" not 'semi-annually'. In regards to Section 5, he did not feel it should be a flat fee.

City Manager Piasecki informed Mr. Oakley that the draft ordinance has been revised. In regards to the former Section 5, it is now 10% of the gross proceeds and in the former Section 4 'semi-annually' has been removed.

Paul Kalchik, Highline Community College Student
Mr. Kalchik spoke in opposition to the draft ordinance informing Council that parking permit fees at the College went from $16 last year to $32 for this year, per quarter. He expressed concern that the draft ordinance would increase parking permit fees again. He also noted that the cost of tuition has gone up every year for the last 3 years. He voiced the opinion that community college was suppose to be affordable education and that is eroding. He noted that students give back to the community by eating at local restaurants and buying gas at local stations. He felt increasing parking fees would hurt many students who are receiving financial aid or are on unemployment.

Upon questioning by Council, the students noted that the parking fee charged by the College is to help pay for security, repaving and maintenance of the parking lots.

Assistant City Attorney Brown advised Council that State law allows municipalities to impose a tax on commercial parking He citied Brainbridge Island, Bremerton, Burien and Sea Tac as examples of Washington cities that have enacted such a parking tax. He stated that the proceeds from the parking tax must be used for transportation maintenance and improvement projects. He noted that the annual projected revenue, should the parking tax be instituted, is estimated to be a minimum of $100,000.00.

Upon questioning by Council, Assistant City Attorney Brown noted that the definition of a commercial parking lot is anywhere a fee is charged for parking, and that would include Highline Community College.

It was noted that Mt. Rainier High School charges students a parking fee.

City Manager Piasecki confirmed that the City would pay the tax on all paid parking that the City owns, i.e. Redondo, and eventually the Marina and the Beach Park.

Councilmember Benjamin stated that this tax will be imposed on students, including high school students, taxing those who can least afford it. He felt this is not a fair taxation.

Upon questioning on how the estimated revenue was determined, City Manager Piasecki advised that based on the number of students at Highline College and Highline School District, plus some paid parking at apartments, a very conservative estimate was arrived at.

City Manager Piasecki informed Council that letters will be sent to Highline College, Highline School District, apartments and commercial properties informing them of the new tax, along with a simple tax return form for them to complete. He noted there may have to be some audits, and he is discussing with the Finance Director that perhaps, for a fee, Microflex will perform this work.

Councilmember Benjamin advised that he will not support this tax.

Mayor Pro Tem Thomasson felt that the definition contained in the draft ordinance, under definitions that the term “may be ancillary to any non-residential use” would imply that the tax would not apply to apartments, condominiums or retirement homes. He felt that the definition would need to be changed if it is to apply to these types of residential uses. He further questioned what the Legislature may have intended by the term commercial parking business and whether the College or high school would fit in to that term. He felt that perhaps we have not thought through all of the implications. He questioned how hotels/motels may fit the definition when they advertise parking for a week. He felt that there may be hotels/motels along the Highway that may be doing this type of parking. He stated that the City may be pushing the envelope on the Legislative intent and there may be some risk in adopting this tax without further study in regards to the definition to make sure it is targeting exactly what we expect it to be. He also noted that the High School may get around the tax by saying they are not charging a parking fee, but rather a vehicle registration fee.

City Attorney Marousek agreed that the way in which the definition is currently written, that apartments would be exempt from the tax.

Councilmember Petersen agreed with Mayor Pro Tem Thomasson and also questioned whether self storage units may fall under this tax, also storage of vehicles at towing yards.

Councilmember Sherman expressed the opinion that originally the problem was getting money from parking at the Marina into the general fund. He questioned whether the Council could limit this tax to metered parking only.

Assistant City Attorney Brown noted that the law gives a pretty broad interpretation on how the parking is actually taxed. It can be by a stall or on a percentage basis.

City Attorney Marousek advised that the statute specifically permits municipal governments to impose different rates on different types of facilities, or different classifications, as long as the ordinance has a reasonable basis for differences in the rates that are charged.

Councilmember Sherman noted that if this revenue generating measure is not approved, then Council needs to make further budget cuts in the same amount. He noted that he would be in favor of limiting the parking tax to metered parking, and instead of a 10% tax make it 50%.

Councilmember White felt Councilmember Sherman's idea is worth exploring.

Assistant City Attorney Brown advised that taxing only metered parking is a policy question that Council must answer. He noted it was his understanding that imposing the tax was to maintain and improve roads that are used by the people who are driving their cars to all the parking lots.

Councilmember Benjamin expressed concern over metered parking, as it would need to be very specific if the intent is to only tax City parking.

Mayor Pro Tem Thomasson expressed the opinion that he is not sure he would want to exempt commercial parking on the Highway. He felt that the definition really needs to be clarified. He noted that different classes of parking could be identified. He reminded Council that the College is one of the larger traffic generators in the City and does not pay any property tax, or any other money into the City's revenue stream.

MOTION was made by Mayor Sheckler, seconded by Councilmember White, to move the draft ordinance to a second reading on an agenda to be determined by the Mayor and City Manager.

Councilmember Benjamin stated that he is adamantly opposed to the draft ordinance.

Councilmember White noted that Council must look to the future and potential new revenues, which in turn will help with economic development.

Councilmember Sherman requested that for the 2nd reading, alternatives be brought to Council for consideration such as different rates, definition of categories, and define exemptions such as towing yards.

Mayor Pro Tem Thomasson felt it needs to be clear whether the tax is in addition to a parking fee or as part of the fee, especially in connection with City imposed parking fees.

VOTE ON MOTION: Motion passed 4 to 2 with Councilmembers Benjamin and Petersen opposed.

Draft Ordinance No. 04-217 Establishing B & O Tax - 1st Reading

Mayor Sheckler introduced the subject, and announced that he would now allow the individual who wished to address Council on this item to speak.

Vickie Bergquist, Des Moines Chamber of Commerce

Ms. Bergquist representing the Chamber of Commerce, pointed out that several surrounding cities have much lower business license fees that Des Moines. She advised that most of the Des Moines' businesses are very small. She felt that a B & O tax would be contrary to encouraging economic development and encouraging new businesses, and would in fact force out many existing businesses.

Finance Director Henderson advised that this presentation is to get Councils input and direction on imposing a business and occupation tax. She advised Council that the draft ordinance is the model ordinance as recommended by AWC for cities that wish to impose a B & O tax. She informed Council that the minimum threshold for businesses would be $20,000 gross receipts. She advised that should Council adopt a B & O tax, staff recommends the administration of the tax be outsourced to Microflex at a cost of $25,000. She noted that projected revenues from a B & O tax are estimated to be approximately $350,000, based on a tax of two tenths of one percent on each dollar reported.

Mayor Pro Tem Thomasson questioned Section 5(4) and felt this needs to be clarified to be specific, that it is not a choice. City Attorney Marousek expressed agreement that Council needs to pick either a quarterly or calendar year reporting period.

Councilmember Sherman noted that he would be willing to raise the gross receipt amount to $40,000, so any business making less than that would not pay any tax. He advised that businesses do generate road trips which increases the cities costs. Again he called Council's attention to the fact that if this revenue generating tax is not imposed, then deeper cuts must be made to make up for this amount.

Mayor Pro Tem Thomasson felt the Council needs to focus on a mix of revenues and whether they make sense or not. He noted there are only a limited number of places that the City can increase revenue. He stated that this tax does not come close to making up the loss of sales equalization tax and he feels a new tax would be passed on to the customers. He noted that if there is not a willingness to approve this revenue stream, then Council may have to cut 6-7 police officers to make up the difference.

Upon questioning by Mayor Sheckler, Ms. Bergquist stated opposition to the B & O tax as a short term solution for a long term problem. She noted that economic development will take time, but a B & O tax will hurt existing businesses.

Councilmember White stated that she does not want to discourage business, but the City has serious budget problems and all Councilmembers, businesses and citizens need to pull together.

Mayor Sheckler commented that if Council doesn't do something on the revenue side to help with services, there will not be anybody who wants to come to Des Moines.

Councilmember Benjamin commented that a sound economic development strategy is the only way that that the City can obtain a quality of life that the community deserves, and this would not include a B & O tax at this time. He felt that the City needs to make the necessary cuts to live within its means. He does not support cuts to law enforcement, but Council should prioritize elective services.

Councilmember Sherman stated that Council has already allocated funds for economic development and have targeted other areas to help in this effort. He questioned where Councilmember Benjamin would suggest a half a million dollars worth of cuts be made. He noted at this time the City cannot afford to make many more drastic cuts, and needs to look at ways to bring in revenue.

Councilmember White suggested that perhaps Council should consider another levy, with more specific details on what it would be paying for.

Mayor Pro Tem Thomasson challenged Councilmember Benjamin to bring in his list of proposed budget cuts that would equal $1 million, and then there would be no need for a B & O tax.

Councilmember Benjamin stated that it is his opinion that the budget problems have been 3 years in the making. He noted that the City's levy lid lift failed and therefore Council needs to buckle down and make budget cuts.

Mayor Sheckler stated that if there are no new revenue sources identified, and there are no cuts in law enforcement, he felt that a disaster may be about to happen.

NEXT MEETING DATE - Regular meeting November 18, 2004 at 7 p.m.

ADJOURNMENT

At 10:23 p.m. **MOTION** was made by Mayor Pro Tem Thomasson, seconded by Councilmember Petersen and passed unanimously, to adjourn.

Respectfully submitted,

Denis Staab, City Clerk