

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

May 27, 2004

The regular meeting of the Des Moines City Council was called to order at 7:35 p.m. by Mayor Sheckler in the City Council Chambers, 21630 11th Avenue South.

PLEDGE OF ALLEGIANCE to the Flag was led by Mayor Sheckler.

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Richard Benjamin, Dan Sherman, Maggie Steenrod, and Susan White. Absent: Councilmember Gary Petersen. Also present were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, City Attorney Linda Marousek, Public Works Director Tim Heydon, Community Development Director Judith Kilgore, Assistant City Attorney Richard Brown, Court Services Manager Jennefer Henson, Civil Engineer Mike Holmes, and Deputy City Clerk Angela Chaufy.

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

ADMINISTRATION REPORT

Briefing from Congressman Adam Smith

Mayor Sheckler introduced Congressman Adam Smith.

Congressman Smith identified transportation as a local priority and defense and homeland security as national priorities. He voiced support for an internet purchase tax. Various options were currently being studied to determine a fair and equitable system. Congressman Smith said that he could be contacted by email at adam.smith@mail.house.gov or by telephone at 253-593-6600. Upon questioning from Councilmember Sherman, he voiced support for legislation which would allow citizens to deduct their sales tax from their federal income tax.

Councilmember Sherman thanked Congressman Smith for his support of the city's position regarding the south access road to the airport. In regard to the taxing of internet sales, Councilmember Sherman stressed that Des Moines strongly supports point-of-delivery taxation.

Councilmember White informed Congressman Smith that the Council was currently working on economic development, downtown revitalization, and Des Moines Beach Park historic preservation.

Congressman Smith said that South Sound development was an important issue. He has focused on technology and education to attract businesses to the area. In response to Councilmember Steenrod's request, Congressman Smith detailed the provisions of the Prescription Drug Benefit passed by the Legislature in 2003.

Regarding the taxation of internet sales, Mayor Sheckler reiterated the City's position. On behalf of the Airport Communities Coalition (ACC), Mayor Sheckler thanked Congressman Smith for his efforts in securing money for local school improvements.

COMMENTS FROM THE PUBLIC

Cathy Narverud, 1117 South 222nd

Ms. Narverud told Council that Peterson Northwest has been an asset to the City. She stated that no issues concerning the proposed improvements had been raised when the company purchased the additional property at South 218th Street and Pacific Highway South. Ms. Narverud noted that Bjorneby Auto Rebuild was located down the street from Peterson Northwest. She urged Council to be consistent in their treatment of businesses.

Jack Kniskern, 22602 13th Avenue South

Mr. Kniskern presented Council with a funding proposal for the "Dictionaries by the Dozen" project. He challenged Council/Administration, the Police Department, and the Park and Recreation Department to each donate \$480 for the project. Mr. Kniskern said that the dictionary project was part of the vision to support education in the City. He read a thank you note written by a dictionary recipient.

BOARD & COMMITTEE REPORTS

Utility Tax

Councilmember Benjamin reported that the Supreme Court had given the Third Runway Project permission to proceed. He noted that a portion of the utility tax had been dedicated to the fight against the third runway.

MOTION was made by Councilmember Benjamin to reduce the utility tax from 6% to 4%.

Motion failed for lack of a second.

Councilmember Benjamin filed an application for an initiative petition to reduce the rate of the City of Des Moines utility occupation tax, established by DMMC 3.68.060, at 6% of total gross revenues to 4% of total gross revenues for the same utilities currently taxed with the Clerk.

Petersen Northwest Property

Councilmember Benjamin thanked Ms. Narverud for her comments. He said that Council needed to treat businesses equally and consistently.

Correspondence from Wayne Bader Dated May 26, 2004

Councilmember Benjamin noted that Mr. Bader had received a "Stop Work" notice from the City regarding his temporary, portable shelter. Councilmember Benjamin asked Administration to look into the situation. He questioned why Mr. Bader's covering was being singled-out. Councilmember Benjamin stated that it was important for the City to be consistent in their treatment to others.

Dollars for Scholars

Councilmember Steenrod thanked the individuals and organizations involved in the Dollars for Scholars program. She congratulated the following scholarship winners:

Thomas V. Avolio	Kevin J. Dolan	Kayla M. Latimer	Thomasson, Brian
Bert Bertucio	Brittany A. Garcia	Rachel A. Lewis	Thomson, Maryam T.
Daynie E. Castilla	Karen L. Harris	Heather R. Lobb	Kali L. Paris

Erica R. Christie Jake A. Korzeniecki Cynthia C. McKinzy Christine N. Waltner

SeaTac International Airport Concourse A Open House

Councilmember Steenrod announced that the Port of Seattle would host an open house for the airport's Concourse A on June 12, 2004 from 10:00 a.m. to 4:00 p.m.

Contingency Fund Report

Councilmember Steenrod thanked Assistant City Manager Loch for his report concerning the use of contingency funds. She was pleased that few contingency awards had been used.

Economic Development

In reference to Ms. Narverud's comments regarding Pete's Towing, Councilmember Steenrod said that economic development does not just happen but people make it happen. She stated that development comes at a cost and requires risk-taking by businesses. As an example, Councilmember Steenrod announced that she had recently signed an agreement to sell her property on Pacific Highway South so that a Walgreen store could be constructed at the location. She encouraged more businesses to take risks and urged Council to review the zoning regulations to aid development.

Councilmember Sherman said that compromises for businesses did not necessarily result in a positive effect for the City. He said that business decisions were not necessarily good for the City and were sometimes in conflict with the decisions of Council. Councilmember Sherman stated his belief that Council's role was to make decisions for the good of the City.

Utility Tax

Councilmember Sherman asked Administration to respond to the following questions:

1. How much utility tax has been collected in 2004?
2. How much money has the City spent on the airport fight in 2004?
3. If not all of the collected 2% of the utility tax had been spent on the airport fight, what has it been spent on?
4. What is the status of the third runway?
5. Is on-going monitoring by the ACC needed?

South County Area Transportation Board

Councilmember Sherman reported that the Board had reviewed the Regional Transportation Improvement District (RTID) projects. He noted that the marketing group had decided not to support the issue and it was unlikely the issue would be on the November 2004 ballot.

SR 509 Executive Committee

Councilmember Sherman informed Council that the committee expected \$900,000,000 from RTID funds. He noted that, despite an interlocal agreement, the Port of Seattle no longer wants to create a grade separated freeway access road. Councilmember Sherman said that he strongly represented the City's position regarding the issue at the meeting.

Economic Development

Councilmember White said that the City needs an economic development plan to revitalize the City.

Public Safety and Transportation Committee

Mayor Pro Tem Thomasson informed Council that the committee had reviewed Draft Ordinance No. 04-088 and recommended approval.

Dollars for Scholars

Mayor Sheckler noted that Professional Mortgage Company had provided a \$500 Steven J. Underwood scholarship. He complimented Councilmember Steenrod for "walking the talk".

Airport Communities Coalition

Mayor Sheckler announced that the ACC Executive Committee would meet June 2, 2004 to review the Supreme Court's decision regarding the third runway. He said that, in part, the court had given deference to the Department of Ecology's standards rather than the Pollution Control Board's requirements. He would report the findings of the committee to Council.

Utility Tax

Mayor Sheckler said that 1%, rather than 2%, of the City's utility tax was currently dedicated to the ACC. Airport defense was allotted approximately 70% of the collected 1% tax.

ADMINISTRATION REPORTS

Utility Tax

City Manager Piasecki explained that each percentage point of utility tax collects approximately \$360,000-370,000. The City's commitment to the ACC for 2004 is \$70,000, approximately 10% of a 2% utility tax.

Councilmember Benjamin asked staff to provide him with the amount of money the City has dedicated to the ACC since his election. He also wished to know the amount of the City's utility tax prior to the fight against the third runway.

City Email Address Change

City Manager Piasecki announced that staff e-mail addresses would change effective July 23, 2004.

Suburban Cities Association Retreat

City Manager Piasecki questioned whether Council wished to send a delegate to the Suburban Cities Association Retreat on June 10-11, 2004.

Councilmember White volunteered to represent the City at the retreat.

2003 Haunted House

On behalf of SCARE Productions and Rotary Club, Susan Goegebuer asked that the presentation of the 2003 Haunted House proceeds be delayed one week.

CONSENT CALENDAR was read by Deputy City Clerk Chaufy.

1. Motion is to approve the minutes of May 13, 2004.
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 #94310 through #94473 & electronic fund transfers in the total amount of \$263,747.26

Payroll fund transfers in the total amount of \$359,537.49

3. Motion is to accept the Washington State Department of Ecology Shoreline Master Program Grant in the amount of \$78,275 and authorize the City Manager to sign the proposed contract substantially in the form as submitted.

4. ~~Motion is to authorize the creation of a Planning Technician Position in the Community Development Department, the creation of a Civil Engineer I position in the Public Works Department in the total amount of up to \$65,380, and to direct staff to prepare a draft ordinance to amend the budget to fund these two limited term positions.~~

5. Motion is to approve the Interlocal Agreement between the Administrative Office of the Courts and the City of Des Moines for computer replacement and authorize the City Manager to sign the agreement substantially in the form as submitted.

6. ~~Draft Resolution No. 04-099 – Title: A Resolution of the City Council of the City of Des Moines, Washington, authorizing the Des Moines Rotary Club to conduct the 2004 and 2005 Haunted House at the Des Moines Beach Park and listing conditions under which such permission is granted.~~

~~MOTION is to approve Draft Resolution No. 04-099.~~

City Manager Piasecki requested that Item No. 6 be moved to the June 3, 2004 agenda for the following reasons:

1. The draft resolution proposes the approval of the event for two years while past resolutions have only been for one year.
2. The hold harmless language in the proposed resolution should be made consistent with hold harmless provisions for similar events.
3. A policy decision by Council is required as the facility is part of the Master Planning Process for the Des Moines Beach Park.

Mayor Pro Tem Thomasson removed Item No. 6.

Councilmember Steenrod removed Item No. 4.

MOTION was made by Councilmember Sherman, seconded by Mayor Pro Tem Thomasson and passed unanimously to approve the consent calendar as amended.

REMOVED CONSENT ITEMS

Draft Resolution No. 04-099 – Authorizing Use of Beach Park Auditorium by Des Moines Rotary Club for Its Annual Haunted House Special Event

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Sherman, and passed unanimously to continue the item to the next meeting.

Request for Limited-Term Planning Technician and Civil Engineer I

In response to Councilmember Steenrod's questioning, Community Development Director Kilgore explained that the Planning Technician position would require approximately \$28,000 in 2004 and \$60,000 in 2005.

Public Works Director Heydon informed Council that the Civil Engineer I position would cost approximately \$36,980 in 2004 and \$72,000 in 2005.

Councilmember Sherman asked for information regarding the city's potential unemployment costs for these positions.

Councilmember Thomasson recommended that the positions be approved for eighteen months as their services were required through that period. The continuance of the positions would be evaluated through the budget process.

MOTION was made by Mayor Pro Tem Thomasson to authorize the creation of a Planning Technician position and a Civil Engineer I position in the total amount of up to \$65,380 as two limited-term positions.

Mayor Pro Tem Thomasson clarified that the intent of the motion was to include these positions in the 2005 budget. Extension beyond 2005 would be subject to Council approval. The positions should be designated as "limited-term" in the 2005 budget.

Motion was seconded by Councilmember Steenrod and passed unanimously.

At 9:05 p.m., Mayor Sheckler declared a ten-minute break.

PUBLIC HEARING

Draft Ordinance No. 04-010 [Assigned Ord. No. 1341] Planning Agency Duties Regarding Plats – 1st Reading

Mayor Sheckler opened the public hearing.

Assistant City Attorney Brown informed Council that the purpose of the proposed ordinance was to rescind the expanded duties given by the Council to the Planning Agency by Ordinance No. 1287. The proposed ordinance would bring the City's subdivision and zoning codes back into compliance with state law.

Mayor Sheckler called for speakers three times.

None responded.

Upon questioning, Assistant City Attorney Brown confirmed that, if the proposed ordinance was adopted, the Planning Agency would operate as an advisory board to Council.

City Attorney Marousek noted that any project vested under the current ordinance would proceed under the current process while any application filed after the enactment of the new ordinance would fall under the new process.

Councilmember Sherman noted that DMMC 17.16.100 should refer to 18.56 rather than 18.86.

City Attorney Marousek concurred.

Assistant City Attorney Brown recommended that the public hearing be conducted by the Hearing Examiner.

Councilmember White suggested that a hearing examiner inform Council of their role and expertise.

Mayor Sheckler agreed.

City Attorney Marousek informed Council that an appeal of the Hearing Examiner's decision could go to Council.

Councilmember Steenrod stressed the importance of receiving an unbiased report regarding the pros and cons of utilizing a hearing examiner for the public hearing process. She questioned Councilmember White's participation in the discussion due to her husband's role in the Planning Agency.

City Attorney Marousek ruled that Councilmember White's participation presented no legal conflict of interest or appearance of fairness issues.

Mayor Pro Tem Thomasson said that the role of the Planning Agency needed to be clarified. He recommended that the hearing and decision be the responsibility of Council. Mayor Pro Tem Thomasson said that the quality of the decision depended upon the expertise and willingness of Council to devote time to the process.

Mayor Sheckler closed the public hearing.

MOTION was made by Councilmember Steenrod, seconded by Mayor Pro Tem Thomasson, and passed unanimously to suspend Rule 26(b) in order to enact Draft Ordinance No. 04-010 on the first reading.

MOTION was made by Councilmember Steenrod and seconded by Mayor Pro Tem Thomasson to enact Draft Ordinance No. 04-010.

City Manager Piasecki read the title of Draft Ordinance No. 04-010 into the record.

Councilmember Steenrod said that the City's ordinances should be available on the City's website.

Mayor Pro Tem Thomasson suggested that all ordinances adopted after January 1, 2004 be placed on the City's website.

City Attorney Marousek noted that the title of the proposed ordinance should also refer to Ordinance No. 1287.

Council concurred.

VOTE ON MOTION: Motion passed unanimously.

MOTION was made by Councilmember White and seconded by Mayor Sheckler to direct staff to prepare a draft ordinance providing for preliminary subdivision and plat issues to be heard by the City's hearing examiner in lieu of those matters coming to the City Council and with alternatives, for Council consideration, as to the effect of the hearing examiner's decision.

Councilmember Sherman said that Council learns the strengths and weaknesses of the City's code while reviewing issues. He felt a public hearing process conducted by Council was valuable.

Councilmember Steenrod agreed with Councilmember Sherman and said that the hearing process allows the public to address their elected officials. She said that she would not support the motion.

Mayor Sheckler voiced support for the motion as it would allow an opportunity for Council to learn the pros and cons of using a hearing examiner in this capacity.

VOTE ON MOTION: Motion failed, 2 – 4, with Mayor Sheckler and Councilmember White voting "Yes".

Jail Administration Services

Court Services Manager Henson introduced the subject.

City Manager Piasecki explained that the proposed interlocal agreement would create a structure for cities within King County to deal with jail management issues, study booking issues, and explore long-term jail solutions.

MOTION was made by Councilmember Sherman and seconded by Councilmember White to approve the interlocal agreement for jail administration services and to authorize the City Manager to sign the agreement substantially in the form as submitted.

Councilmember Sherman said that it was important for Des Moines to be part of the decision-making process.

Upon questioning from Councilmember Steenrod, City Manager Piasecki noted that the City was currently negotiating to lower their bed commitment from 17 beds to 8 beds.

VOTE ON MOTION: Motion passed unanimously.

Court Services Manager Henson explained the role of the Jail Oversight Assembly.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Sherman, and passed unanimously to confirm the appointment of Bob Sheckler to the Jail Oversight Assembly.

Draft Ordinance No. 04-088 [Assigned Ord. No. 1342] – Revising Speed Limits on Specific Streets in the City of Des Moines

Mayor Sheckler introduced the subject.

MOTION was made by Mayor Pro Tem Thomasson and seconded by Councilmember Sherman to suspend Rule 26(b) in order to enact Draft Ordinance No. 04-088 on the first reading.

VOTE ON MOTION: Motion passed, 5 – 1, with Councilmember Benjamin opposed.

MOTION was made by Mayor Pro Tem Thomasson and seconded by Councilmember Sherman to enact Draft Ordinance No. 04-088, amending DMMC 10.20.010 and 10.20.020 to revise speed limits on designated City streets.

Mayor Pro Tem Thomasson explained that the proposed ordinance would

- Increase the speed limit from 25 mph to 35 mph on South 216th Street from 13th Avenue South to 11th Avenue South,
- Formally adopt the 40 mph speed limit for 16th Avenue South from South 272nd to South 279th Street in the DMMC, and
- Remove Marine View Drive South from Kent-Des Moines Road to South 252nd Street from DMMC 10.20.020 and list it in DMMC 10.20.010.

In response to Councilmember Benjamin's questioning, Civil Engineer Mike Holmes confirmed that the Engineering Department had reviewed the site distance and timing from the driveway of the new house located on 16th Avenue South. Both were found to be sufficient for the recommended speed limit.

VOTE ON MOTION: Motion passed unanimously.

Draft Ordinance No. 04-073 – 2004 Budget Amendments

MOTION was made by Mayor Pro Tem Thomasson to suspend Council Rule 26(b) to consider Draft Ordinance No. 04-073 on the first reading.

Motion failed for lack of a second.

NEXT MEETING DATE – Study Session, June 3, 2004

ADJOURNMENT

At 10:29 p.m., **motion** was made by Councilmember Steenrod and seconded by Councilmember White to adjourn the meeting. **VOTE ON MOTION:** Motion passed, 5 – 1, with Mayor Pro Tem Thomasson opposed.

Respectfully submitted,

Angela M. Chaufy
Deputy City Clerk

ACTION ITEMS FROM MAY 27, 2004 MEETING

- Review “Stop Work” Order for Wayne Bader’s property.
- Respond to Councilmember Sherman’s request for information regarding the utility tax and ACC issues.
- Respond to Councilmember Benjamin’s request for information regarding the amount of money dedicated to the ACC since his election and the rate of the utility tax prior to the fight against the third runway.