

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

June 10, 2004

The regular meeting of the Des Moines City Council was called to order by Mayor Sheckler at 7:32 p.m. in the City Council Chambers, 21630 11th Avenue South, Suite B.

PLEDGE OF ALLEGIANCE was led by Councilmember Sherman.

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Richard Benjamin, Gary Petersen, Dan Sherman and Maggie Steenrod. Absent: Councilmember Susan White. Also in attendance were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, City Attorney Linda Marousek, Assistant City Attorney Richard Brown, Public Works Director Tim Heydon, Parks and Recreation Director Patrice Thorell, Harbormaster Joe Dusenbury, Human Resources Coordinator Angie Chaufty and City Clerk Denis Staab.

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

City Manager Piasecki advised that Councilmember White is attending the week long National Trust for Historic Preservation Leadership Training Conference in Oregon. She was invited by the King County Historic Preservation Commission, who is paying for her participation.

COMMENTS FROM THE PUBLIC

Joyce Lentz, Representative of Hospitality House at 23418 95th Court South, Kent

Ms. Lentz advised that the Hospitality House is a short term emergency shelter for single homeless women. She read two letters of former users, praising the program. She thanked Council for providing funding in 2003 and requested that the program be considered for Human Services funding in 2005.

Walt Heft, 437 South 206th Street

Mr. Heft informed Council that he has been a Marina tenant for the past 18 years and is speaking on behalf of himself and other Marina tenants regarding dinghy storage issues. He proceeded to review the following chronological chain of events:

- 1994 - up to this point dinghies were stored on finger piers. Invented a dinghy hoisting system above boat.
- 2001 - told rope system was a hazard to fire fighters. Everyone changed ropes to steel cable. Fire Chief indicated no hazard, but not desirable, but are more acceptable than storing on finger piers.
- 2004 - told all dinghies are to come down by order of Fire Department.

Mr. Heft advised that after attending a Fire Commissioners meeting on June 7, 2004, he was told by Fire Chief there are no regulations prohibiting the hanging of dinghies. He noted the Marina office has suggested that dinghies be stored in a dry storage shed. He informed Council that this is illegal because a tenant can only occupy one slip or shed. Also if the dinghy is on the back of the boat, it then can make your boat too long for the slip meaning you need to move to a more expensive slip. In summary, Mr. Heft noted tenants want dinghies close to their slips and the hoist system is the best solution and he requested Council reverse the Marina Management

instructions to eliminate hanging dinghies. He distributed pictures to Council to demonstrate various issues that he raised, including hardship to those tenants who are handicapped.

City Manager Piasecki informed Council that he has been working with Mr. Heft over the past several weeks regarding the issue. He advised that he will have the Harbormaster address Mr. Heft's comments under the Administration's report and advise Council on what steps are being taken and why. He informed Council that the issue involves Marina Rules and as City Manager he does have the authority to make these kinds of decisions and if necessary, change the Rules.

Don Rieks, 21221 5th Avenue South

Mr. Rieks cited the following:

- January 2004, Council raised property taxes by 1%
- Last Council meeting plans were made to put a levy lid lift on the ballot to raise more taxes
- Council continues to seek funds for ACC, even though ACC has lost the fight in the Supreme Court
- City collects a Surface Water Management fee which has been collected since North Hill was annexed
- When a water pipe broke last November, the City prevented the Water District from replacing the street and claimed safety issues in order to abandon and close the street creating a hardship for citizens living in the area. He cited that the street had eroded from surface water runoff for two decades and City refused to hire a competent engineer to determine how to replace the street
- Marine View Drive bridge is perfectly sound and is less than 10 years old, but the City plans to replace it with one to provide passage for fish

Mr. Rieks noted that in the present economy those living on fixed incomes, or unemployment, are counting pennies while Council is planning on attacking with another Levy. He urged Council at their upcoming retreat to spend less time on raising taxes and more time considering how taxes are being spent, prioritize expenses and set priorities on what is essential, what is desirable, what is deferrable and what is unnecessary.

Bob Pond, 23116 30th Avenue South

Mr. Pond encouraged Council to consider adopting an "apartment ordinance" similar to one passed last year regarding motels. He felt that there is no incentive for apartment owners to cooperate with the Police regarding residents of apartments. Management and ownership, sometime absentee ownership, should be held responsible for who is living in the apartments and be cooperative, or forced to be cooperative with the Police. He felt this would reduce the costs of the Police department and give them the tools they need to accomplish their job.

Janise Disbrow, 22724 ½ 10th Avenue South

Ms. Disbrow spoke in support of saving the remaining buildings that are at Des Moines Beach Park. She informed Council that as a child she lived at the former Bible Camp where her father was a caretaker and helped build Founders Lodge, and her mother was the head cook for almost 15 years. She informed Council that a former lover of Covenant Beach has created a web site where individuals can share their feelings and there are possible plans of a reunion. She felt that saving the buildings at the Park would serve to enrich the City of Des Moines financially and the lives of people who come back for the memories. She offered her help in the effort.

Mr. Feuerstein brought to Council's attention to what he considers a "speed trap" on South 271st going down to Redondo Beach. He noted the speed limit is 25 mph. He advised that a comparable road leading out of Redondo to Federal Way is 35 mph. He suggested that perhaps the excessive ticket writing was because of comments from Councilmember Steenrod during budget time, that the Police were not getting enough revenue from this source. He asked that Council considering changing the speed limit to match Federal Way.

City Manager Piasecki informed Mr. Feuerstein that there is a City Traffic Safety Committee that can review such issues. He advised that he will forward this issue to the Police Chief and the Public Works Director.

In conclusion, Mr. Feuerstein requested that at the very least, the City install a sign stating that the speed limit is radar enforced.

BOARD & COMMITTEE REPORTS

Public Safety and Transportation Committee

Councilmember Sherman advised Council that the Committee has been working on the draft graffiti ordinance and that should be to Council for consideration in the next several weeks.

In regards to a draft ordinance concerning motorized scooters regarding requiring helmets, noise standards and reckless use, Councilmember Sherman noted that Auburn, among other cities, have recently passed such legislation which seems to surpass the standards that the State says cities can do. Therefore, the Committee will wait to see how these ordinances stand up to legal challenges before making any recommendations for Council's consideration.

Response to Public Comment from Mr. Feuerstein

Councilmember Steenrod clarified that her concern over lack of ticket writing was at budget time the traffic enforcement division had a negative of \$250,000. She stated that she said tickets should be written when people are violating the law. She noted that prior to the motorcycle officers of the traffic unit, all Police Officers carried ticket books and if you were caught breaking the law, you got a ticket. She reminded everyone that the Police Department's top priority is public safety. She advised that the Council will listen to various reports before determining whether the speed limit needs to be changed.

Covered Bus Shelters

Councilmember Steenrod advised that one of her priorities was to cover bus shelters because so many citizens do use the bus. However, five of the bus shelters located along Pacific Highway South are in Kent, while there are 12 within Des Moines. She reported that detailed information regarding how many shelters are covered has been difficult to obtain from Metro, but she will continue to work on the issue and County Councilmember Patterson has volunteered to help. Her goal is to put covered shelters in Des Moines and other areas that are used by Des Moines residents. She announced that about 5 or 6 covered shelters will be installed with the conclusion of the Pacific Highway South improvement project.

Citizen E-Mail Request

In response to questioning by Councilmember Steenrod, City Attorney Marousek stated the City had been sued by 81 citizens and Mr. Estes has been representing the City since 1999 and continues to do so. She noted he is being paid from Marina funds.

Councilmember Steenrod stated that she feels citizens have the right to bring subjects of concern to Council's attention and it is Council's obligation to provide an answer.

City Manager Piasecki further noted that the information that staff provided was intended for Council's review and not for general public distribution. He concurred that citizens should bring issues or concerns to Council.

City Council Retreat

Councilmember Steenrod stated that will not be available to attend the upcoming Council retreat. She questioned the wisdom of holding the retreat in Vancouver, what with the price of gas, the hotel and meals. She requested that the Mayor and Administration reconsider having the retreat at such a distant site. She proposed that there is nothing that can be done in Vancouver that couldn't be done much closer to home, at much less cost.

Port of Seattle Property & Environmental Concerns

Councilmember Benjamin referenced the property just north of the Post Office along South 216th, that is owned by the Port of Seattle. He advised that the Port was not allowed to condemn the property owned by the City, consequently the City still has title to all the former street right-of-ways in that area. He noted that former Mayor Don Wasson was invited to a meeting with the Port to discuss a deal between the City and the Port. Mr. Wasson was informed that the Port is not interested in pursuing further attempts to move dirt through Des Moines by way of a conveyor belt, which could have produced upwards of \$20 million to the City. He was informed that the Port was interested in removing millions of yards of fill from the buyout area across from the Post Office. The Port mentioned the possibility of paying the City in excess of \$3 million for the right-of-way. Councilmember Benjamin stated that due to bad publicity, this created an undesirable environment in which to proceed further to explore what benefits the City might receive from the Port.

Councilmember Benjamin stated that he has been informed that the current Mayor and City Manager have been holding meetings with the Port to sell the City's right-of-ways to the Port. He stated this raises extreme concerns regarding the environment, along with questions about a conflict of interest when the Mayor is also the head of ACC. He requested that as a Councilmember, he be informed of any meetings with the Port. He also noted that the Mayor and City Manager met this week with Mr. Hank Hopkins who wishes to place a conveyor belt through the City and Des Moines Beach Park, and expressed concern about the reason for this meeting.

Proposed Levy Lid Lift

Councilmember Benjamin expressed concerns about placing an issue on the Fall election to raise the City's real estate taxes in September rather than November. He stated that Councilmember Sherman requested the November ballot in order to avoid playing games, and he felt that by putting the issue on the September ballot it would be playing games. He noted that September voter turn out is traditionally low. He further noted that the most active voters are senior citizens

who do not have to pay property taxes because Church owned retirement homes are exempt. He felt it is easy to vote to increase taxes that someone else will have to pay for.

City Council Retreat

Councilmember Benjamin stated that the City will waste thousands of taxpayer funds on a two day weekend meeting. He felt that besides depriving Councilmembers and employees of valuable weekend leisure time with families, there is no reason this could not be scheduled for week night meetings, held locally. He also noted some Councilmembers and employees observe religious rituals on Friday, Saturday or Sunday, and a weekend retreat would interfere with that process. He noted that the retreat is scheduled to be held in Vancouver and will not be video taped. He felt that this goes against having an open public government, and that the distance will discourage the public from attendance. He noted that the proposed trip is at the taxpayers expense and some of the highest paid City employees will be in attendance. He noted that he will not participate in this waste of taxpayer money.

PRESIDING OFFICER'S REPORT

Port of Seattle - City Right-of-way

In response to Councilmember Benjamin suggesting that meetings were held with the Port to sell City right-of-way in the Port buy out area north of the Post Office, Mayor Sheckler stated he has no idea where this came from. He did acknowledge that he and the City Manager met with the Port on three occasions in the last six to eight months. The discussions with the Port are non-third runway issues and are to try to establish a rapport regarding economic development, particularly in the buy-out area across from the Post Office.

Meeting With Hank Hopkins

Mayor Sheckler acknowledged that a meeting was held with Hank Hopkins, after Mr. Hopkins had requested one several times. Mr. Hopkins requested that the City reconsider allowing a conveyor belt through Des Moines and the Mayor noted that this request was flatly refused.

ADMINISTRATION REPORTS

Changing City E-Mail Address

City Manager Piasecki reminded everyone that the City's e-mail address will be changing as of July 23rd to @desmoineswa.gov.

Letter from Wayne Bader

City Manager Piasecki advised that a response from the Community Development Director to the correspondence given to Council from Mr. Bader has been placed in Council's boxes.

Human Services Advisory Committee Update

Florence McMullin, member of the Advisory Committee, noted that last year Des Moines had 47 homeless children assisted by the Outreach Street Program sponsored by the Auburn Youth Resources Outreach Program. She introduced the Executive Director, Jim Blanchard, who proceeded to inform Council of the Programs for providing services to homeless and at risk youth. He concluded by expressing appreciation for Des Moines for funding and requested continued future support.

Jill Patton, member of the Advisory Committee, introduced Shelly Levitz with the Institute for Family Development. Ms. Levitz informed Council that the Institute provides in-home services to troubled families and presented a brief overview of the programs that are offered. She thanked Council for the funding and expressed hope for future funding.

CONSENT CALENDAR was read by City Clerk Staab.

1. 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 #94474 through #94656 & electronic fund transfers in the total amount of \$1,391,925.28

Payroll fund transfers in the total amount of \$365,447.56

2. Motion is to approve the agreement between the City of Des Moines and Interagency Committee for Outdoor Recreation Youth Athletic Facility Grant Account in the amount of \$75,000 for improvements to Steven J. Underwood Memorial Park and to authorize the City Manager to sign the agreement substantially in the form as submitted.

~~3. Motion is to accept the dedication of public right-of-way of the area described as Tract X in King County Short Plat 377089, and to authorize payment of approximately \$183.13 in back taxes to clear title.~~ [ED NOTE: Item removed at the request of Councilmember Thomasson.]

4. Motion is to direct the City Manager to execute the Public Works Trust Fund Loan Agreement in the amount of \$5,000,000 for the Pacific Highway South Redevelopment Project substantially in the form as submitted.

Councilmember Thomasson requested that Consent Calendar Item #3 be removed.

MOTION was made by Councilmember Steenrod, seconded by Councilmember Sherman and passed unanimously, to approve the Consent Calendar as amended.

Removed Consent Calendar Item #3 - Dedication of Public Right-of-way

Mayor Pro Tem Thomasson advised that he feels the Reversion clause contained within the Dedication Deed is not in the City's best interest. He noted concern that this provision allows public right-of-way reverted without Council agreement. He stated that after speaking with the City Attorney, that the Attorney feels this would be taken in concert with the vacation statutes of the State. However, he noted that he believes that the reversion clause would trump the State statutes. He felt it is best that this be left up to the Council's judgment for a requested vacation to consider the merits, therefore the revision clause is unwise.

Upon questioning by Councilmember Sherman, City Attorney Marousek advised that the tract will be used for access to the properties within the short plat and that there is already one building permit application pending. She noted that originally Tract X was treated as an easement, but it was required by the old subdivision to be dedicated as public right-of-way.

Mayor Pro Tem Thomasson stated that quite often not all 60 feet of right-of-way is developed and used, and sets up potential conflicts regarding the land that is not utilized. He felt the reversion clause creates an unclear title.

City Attorney Marousek advised that if some of the land is not utilized the reversion clause will ensure that the grantor, the original owners, would get the land back, instead of property owners adjoining the land as State law states.

Councilmember Steenrod felt that it makes sense to her that if the property is not used as public right-of-way that the original owners would want it back and feels that they should be entitled to it.

Mayor Sheckler noted that he would not like the City to set a precedent, to start accepting reversion clauses like this.

MOTION was made by Councilmember Steenrod, seconded by Councilmember Petersen, to accept the dedication of public right-of-way of the area described as Tract X in King County short plat 377098, and to authorize payment of approximately \$183.13 in back taxes to clear title.

Mayor Pro Tem Thomasson reiterated the need for the right-of-way is clear, but the reversion clause can effect the width that the City maintains control over. He stated his interest is in protecting the public's rights and the property owners rights adjacent to this space so that they can have their access, utilities and any other reason that a public right-of-way might be used for over a period of time.

VOTE ON MOTION: Motion passed 4 to 2 with Mayor Pro Tem Thomasson and Mayor Sheckler opposed.

At 8:54 p.m. Mayor Sheckler called for a 10 minute break.

NEW BUSINESS

Employee Suggestion Program

Assistant City Manager Loch reminded Council that idea for this program came up during the 2004 budget discussion as a way to identify new ways to increase savings and reduce expenses. This is also a way to boost employee morale by recognizing and rewarding those employees who have great ideas. He advised that these types of programs are very common in other jurisdictions and organizations, including the State of Washington. He called attention to the outline of how the program would work that is very simplistic, with minimal bureaucracy and minimal overhead for administration. He requested Council's direction before proceeding with putting this into resolution form.

Councilmember Sherman commented that he would hope that employees would make suggestions without having to give them incentives. He suggested that if this program is pursued he would prefer that the percentage of the savings given to the employee be based on actual savings after one year, not anticipated net savings before the actual savings is proven.

Mayor Pro Tem Thomasson noted that he has some problems with this type of program. He felt that the City hires the best employees possible and expect them to bring their minds to work as this is what distinguishes good employees. He felt this is part of what employees get paid for and if you are going to reward the employee you might just as well reward a manager or supervisor. He noted that he probably will not support this type of program.

Upon questioning by Council whether the 10% is paid in the form of a bonus so that it is not subject to various taxes, Human Resources Coordinator Chaufy advised that the amount would be reported to the I.R.S. but will have to check on other withholding issues.

Councilmember Steenrod stated that incentives do motivate and help stimulate creativity. She voiced agreement with Councilmember Sherman to pay the employee only after actual savings data is known. She also suggested that a clause be added that employees must not use City time to think of these cost saving ideas. She further recommended that the program be tried for one year and then evaluate whether the program should be continued.

Mayor Pro Tem Thomasson stated that since the City does have some union represented employees, he would like to see a mechanism that would keep this type of program from becoming expected as part of bargaining agreements.

Mayor Sheckler stated for the record, that although he is not required to, he will recuse himself from any motion that might be made regarding this issue.

MOTION was made by Councilmember Steenrod, seconded by Councilmember Sherman, to direct Administration to prepare a draft resolution to establish an Employee Suggestion Program with the guidelines as suggested by Council. Motion passed 5 to 0 with Mayor Sheckler recusing himself.

Des Moines Beach Park Master Plan

Parks and Recreation Director Thorell informed Council that the purpose of this item is to inform Council of the progress made related to the Des Moines Beach Park Master Plan. She introduced Gary Towe of Project Management Northwest to provide Council with the results of the stakeholder interviews and provide preliminary concepts and ideas for consideration. Mr. Towe proceeded by reviewing in detail the following:

- *Stakeholder/Community Input - Common Themes:*
 - Celebrate the History
 - Emphasize the Natural Environment
 - Facilities/Activities for all ages and members of the community
 - Increase awareness, use and accessibility
 - Integrate Plans: Marina, Des Moines Creek Trail & Downtown
- *Celebrate the History*
 - Honor the history
 - Native American history
 - Log mill display on how area was originally developed
 - Church Camp
 - Restore historical buildings
 - Historic photo display along trail
 - Exhibit from historical society in building
 - Historical plaques and displays
 - Museum within the park
 - Explore grant opportunities

- *Vision*
 - Preserve natural beauty of the trail
 - Improve/increase walking paths/trails
 - More pedestrian friendly
 - Awareness/education of wildlife & vegetation
 - Improve access to beach
 - Preserve beach shoreline
 - Include activities/facilities for all ages/seasons
 - Integrated plans for Des Moines Creek, Downtown/Economic Development & link to Marina

Mr. Towe showed photographs of other area parks denoting pedestrian ways, gathering places, educational and directional signage, statues and sculptures, and requested Council input before proceeding to the next step in the Master Plan update.

Overall, Council expressed consensus with the process as outlined to date. However, the following was submitted by Councilmembers to be incorporated:

- Do not take away more views of the water
- Examine regulatory issues, such as FEMA, need to know regulatory constraints
- Building conditions, what can be done i.e. electrical, etc.
- Examine if there is more room for parking

Mr. Towe informed Council that from now until reporting back to Council again with more detailed plans near the end of July, focus will be on identifying preliminary themes/scenarios, incorporating engineering findings, evaluating themes and scenarios, and obtaining more community feedback.

Draft Ordinance No. 03-074 - Right-of-Way Permits - 1st Reading

Assistant City Attorney Brown informed Council that this draft ordinance and the next one on the Agenda, Draft Ordinance No. 03-075 are companion ordinances. He advised that the draft ordinance will amend DMMC 12.04 by identifying conditions that require approval of the City Council rather than administrative action and establishes policy, guidelines and approval procedures for right-of-way use permits. He called Council's attention to page 3, Section 1(4), which notes Council approval is required for any use or event that is outside of the ordinary course of business and 1) involves the use of City right-of-way for more than 24 hours; or 2) shuts down a major arterial street for more than 24 hours; or 3) charges an admission fee; or 4) allows concessions for sale of food, drinks, merchandise or services; or 5) where the expected attendance is over 100 persons.

Mayor Pro Tem Thomasson felt the draft ordinance may not be the direction that is needed. He felt what is really needed is a "special events permit". He stated that the right-of-way code is pretty well set up to deal with right-of-way issues. He noted that a water district project could close a street for 24 hours and this not something the Council wants to have to deal with.

Assistant City Attorney Brown advised that the key words here are "outside the ordinary course of business".

City Manager Piasecki informed Council that staff has spent a lot of time on crafting the language of this ordinance and the companion draft ordinance. He noted that the example that Mayor Pro Tem Thomasson used is work by a water district, and that is considered ordinary course of work and is already covered under the Municipal Code, and would not need to come to Council.

Upon questioning by Council, City Manager Piasecki advised that under the current code Waterland probably would not need to come before Council for approval. One event that brought this need for code clarification was when the Chamber wanted to use the Big Catch Plaza for a Christmas event, and Council directed Administration to handle it. It was at this time that Council requested Administration to look at what events should come before Council, and the draft ordinance is a result of that.

Councilmember Sherman questioned what would be considered “good cause” to waive fees. Assistant City Attorney Brown noted the waiver is for the requirement that permits must be submitted 90 days in advance. He noted there is a clause for Council to waive fees for “public benefit”.

Councilmember Sherman stated that he would like the word “significant” added in front of public benefit.

Assistant City Attorney Brown noted that staff tried to prepare one ordinance that would cover all special events, but that created more problems, and felt it was more efficient to create to consistent ordinances, one to deal with right-of-way and the other to cover parks.

Councilmember Steenrod expressed support of the draft ordinance as it is clean and easy to read, and will solve a lot of problems.

Upon questioning by Councilmember Steenrod on the process should a permit be turned down, Assistant City Attorney Brown responded an appeal can be made to the City Manager for a Code interpretation and then to the Hearing Examiner.

Mayor Pro Tem Thomasson questioned why there are no provisions for insurance and a hold harmless clause as contained in the companion ordinance and requested this be corrected.

In regards to City Codes requiring oversized vehicles to go through the City for a permit, Public Works Director Heydon stated he believes those permits are handled by the State. He noted that he will have to look into whether Des Moines requires any type of separate permit.

MOTION was made by Mayor Sheckler, seconded by Councilmember Petersen, to pass Draft Ordinance No. 03-074 to a second reading for enactment on the next available consent calendar.

MOTION was made by Councilmember Sherman, seconded by Mayor Pro Tem Thomasson and passed unanimously, amend the draft ordinance to add the word “significant” between the words ‘a’ and ‘public’ on page 5, number 7(b).

NEXT MEETING DATE

Mayor Sheckler announced that the next regular meeting is June 24, 2004.

At 10:29 p.m. **MOTION** was made by Mayor Sheckler to extend the meeting 5 minutes. Motion died for lack of a second.

ADJOURNMENT

At 10:30 p.m., meeting was adjourned as time expired.

Respectfully submitted,

Denis Staab
City Clerk