

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

August 9, 2001

The regular meeting of the Des Moines City Council was called to order at 7:30 p.m. by Mayor Thomasson in the Council Chambers, 21630 11th Avenue South, Suite B.

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

ROLL CALL - Present: Mayor Scott Thomasson, Mayor Pro Tem Sheckler (left meeting at 9:02 p.m.), Councilmembers Terry Brazil, Dave Kaplan, Dan Sherman, Gary Towe and Don Wasson. Also present were City Manager Bob Olander, Assistant City Manager Tony Piasecki, City Attorney Gary McLean, Community Development Director Judith Kilgore, Chief of Police Don Obermiller, Commander Kevin Tucker, Public Works Director Tim Heydon and City Clerk Denis Staab.

COMMENTS FROM THE PUBLIC

Tasha Grosz, 21631 6th Avenue South

Ms. Grosz distributed literature to Councilmembers regarding "Rare-Bits-of Joy", a visiting and therapy animal program. She advised that it is currently being used by Wesley Gardens with great success. She encouraged Councilmembers to review the program and its merits.

Jerry Bergman, 23659 7th Avenue South

On behalf of his neighbors and himself, Mr. Bergman thanked Council for placing the item regarding sidewalk exemptions in the lower Zenith neighborhood on this evenings agenda for Council's consideration and hopefully, resolution. He noted that he is 100% opposed to enforcing sidewalks in small segments in isolated portions of the neighborhood, that in all likely hood will never connect to anything. He advised Council that he considers the Zenith neighborhood unique and one that the neighbors take pride in. He further commented that in the past a no-contest L.I.D. could be entered into, but that option is no longer available. He noted that Council has set different standards for certain neighborhoods, such as the Pacific Ridge Neighborhood and felt that should apply to the Zenith area. He concluded by requesting Council leave the neighborhood as it is and support an ordinance change or, waive sidewalk improvements in this case. Mr. Bergman distributed a e-mail letter from a neighbor supporting this position.

BOARD & COMMITTEE REPORTS

Thank You

Mayor Pro Tem Sheckler expressed appreciation to all those who have sent cards, or telephoned, expressing concern over his recent hospital stay.

AWC Energy Conference

Councilmember Brazil reported attending an energy conference recently that was a joint effort with the states of Washington, Oregon and Idaho. He emphasized the importance of the City taking a strong position on future energy concerns. He advised that this region has come very close to rolling black outs and has concerns on how Puget Sound Energy would warn of such impending happenings. He requested that a committee composed of staff and Council develop

an "Energy Conservation Plan" for the City of Des Moines in the near future. In conclusion, he stated that he will distribute material from the Conference for Councilmembers to review.

Water District #54

Councilmember Sherman announced that Water District #54 had a pump failure earlier this week which caused no water flow for approximately an hour or more. He noted this resulted in "dirty water" and advised citizens to clean faucet filters and check on water heaters. He expressed grave concern as the Highline Water District tie-in did not fully function, increasing the potential for a disaster had a fire broken out in the City during this time, as there would not have been adequate fire flow, if any. He also expressed concern that the District did not advise the Fire Department of the problems, but rather City staff. He reminded Council that the Water District Comprehensive Plan will be up for review shortly and these items need to be clearly addressed.

City Manager Olander added that it was an unfortunate number of incidents that contributed to the problem. These were: one of the three well pumps was down for maintenance, the 2nd pump went out, and the third pump would only work off and on. To add to the problem, the District's alarm system failed, so staff was not aware of the problems early enough to prevent complete water loss. He stated that when the new Comprehensive Plan is presented, hopefully, these issues will be adequately addressed.

Mt. Rainier High School Student

Councilmember Sherman pointed out that an article in the Seattle Times concerned a former Mt. Rainier High School graduate, Eric Weiler, who in conjunction with International Rotary is sponsoring giving away soccer balls to Liberia to promote getting Polio vaccines. Mr. Sherman commented that this is another great example that students educated in our City go on to do great things.

Officer Steven Underwood Memorial

Councilmember Wasson formally requested Administration prepare a draft resolution officially naming and dedicating the City's new sports park in memory of fallen Des Moines Police Officer Steven Underwood. Council unanimously concurred with this directive.

CONSENT CALENDAR was read by City Clerk Staab.

~~1. Motion is to approve the minutes of July 12, 2001.~~ [ED NOTE: This item was removed at the request of Councilmember Brazil.]

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 42.24.080, 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 check # 77274 through #77455 in the total amount of \$504,307.53

Payroll fund transfers in the total amount of \$313,286.37

3. Motion is to authorize the City Manager to approve all vouchers for payment of the following claims during the period of August 9, 2001 through August 23, 2001:

- a. All vouchers for payment of payroll checks, including Marina payroll, and
- b. All vouchers for payment of claims and Marina checks, provided that all vouchers and checks approved by the City Manager in accordance with this motion shall be presented at the September 13, 2001 meeting.

4. Draft Ordinance No. 01-122 **[ASSIGNED ORDINANCE NO. 1285]** - Title: An Ordinance of the City of Des Moines, Washington amending Ordinance No. 844 to extend through October 31, 2001 the non-exclusive franchise transferred to AT&T pursuant to Resolution No. 859, to construct, install and operate, repair, replace and maintain lines, wires, coaxial cable and appurtenances for originating, receiving, distributing and supplying radio, television and other cable communications services along, across and upon public streets, ways, alleys and places within the City of Des Moines.

TWO MOTIONS: First motion is to suspend Council Rule 26(b). Second motion is to approve Draft Ordinance No. 01-122.

~~5. Draft Ordinance No. 01-121 - Title: An Ordinance of the City of Des Moines, Washington providing for the acquisition of property for the construction of the new Marine View Drive Bridge by replacing the existing obsolete and undersized stream conveyance, for the purposes of salmon habitat improvement, public recreation, and increasing the Midway Sewer District outfall capacity; and providing for the condemnation, appropriation, taking and damaging of land and other property rights necessary therefore; and declaring an emergency; all concerning approximately 10,000 square feet of land immediately west of Marine View Drive sloping steeply down to Des Moines Creek, which property is legally described in Appendix A to this ordinance.~~

~~TWO MOTIONS: First motion is to suspend Council Rule 26(b). Second motion is to approve Draft Ordinance No. 01-121. [ED NOTE: This item was removed from the Consent Calendar.]~~

6. Draft Resolution No. 01-123 **[ASSIGNED RESOLUTION NO. 909]** - Title: A Resolution of the City of Des Moines, Washington adopting a Retiree Health Savings Plan for employees covered under the collective bargaining agreement between the City of Des Moines and the Des Moines Police Guild.

MOTION is to approve Draft Resolution No. 01-123.

7. Property Purchases for Pacific Highway South Project - Two motions:

A. MOTION is to purchase 1,029 square feet of land and improvements from Mark and Hye Morris in the amount of \$25,000 plus closing costs, and further to authorize the City Manager to sign the purchase and sale agreement substantially in the form as submitted.

B. MOTION is to purchase one lot with three houses from Eldred and Mary Nelson in the amount of \$301,000 plus closing costs, and further to authorize the City Manager to sign the purchase and sale agreement substantially in the form as submitted.

MOTION was made by Councilmember Towe, seconded by Councilmember Brazil, to approve the Consent Calendar as read.

Consent Item #1 - Councilmember Brazil referred to Page 6 of the July 12th Council Minutes and requested that comments he made on the Agenda Item "Draft Ord. No. 01-119, Duties of the Planning Agency" be included. This item was removed and will be returned to Council for approval at the September 13, 2001 meeting.

VOTE ON MOTION: Motion passed unanimously.

Draft Ordinance No. 01-121 **[ASSIGNED ORDINANCE NO. 1286]** - Property Acquisition
Mayor Thomasson read the draft ordinance by title into the record.

MOTION was made and seconded, to suspend Council Rule 26(b) to take action on first reading. Motion passed 6 to 1 with Councilmember Wasson voting NO.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Towe, to approve Draft Ordinance No. 01-121.

Councilmember Wasson stated that it is his opinion it is a waste of taxpayer money to expend City funds on this project. He noted that the City borrowed funds from the State with the assumption that other agencies will sign interlocal agreements and pay back these funds. To his knowledge these agreements have yet to be entered into.

Public Works Director Heydon advised that no loan funds have been used and upon questioning by Council, reaffirmed they will not be used until the interlocals are in place. He further stated that to date, the City has expended an extremely minor amount of money, well under the City's total 15% share of the project. He advised that the majority of funding spent has come from King County, the Department of Transportation, Midway Sewer District, and Federal funds.

At Council's request the Public Works Director will document exactly what City funds have been spent to-date and distribute to Council for their review.

VOTE ON MAIN MOTION: Motion passed 6 to 1 with Councilmember Wasson voting NO.

PUBLIC HEARING

Draft Ordinance No. 01-119 *[ASSIGNED ORDINANCE NO. 1287]* Planning Agency Duties - 2nd Reading

Mayor Thomasson introduced the subject.

Community Development Director Kilgore noted that on February 1, 2001, Council directed staff to prepare an ordinance that would transfer decision-making authority for a variety of land use actions from the City Council to the Planning Agency. She further noted that the draft ordinance was reviewed by Council at the July 12th Council meeting, at which time Council requested this matter be set for a Public Hearing. She called Council's attention to page 22 of the draft ordinance stating that for Councilmembers to sit on the Agency would be incompatible per State doctrine so this section has been stricken.

City Attorney McLean announced the rules for conducting both public hearings schedule for this meeting.

PUBLIC COMMENTS

Sven Kalve, 27024 8th Avenue South, Planning Agency Member

Mr. Kalve spoke in support of the draft ordinance. He felt this was a right step in enhancing and expanding more formal communications between City Council and the Planning Agency. He stated he personally finds being a member of the Agency as satisfying and rewarding. He stated having the Agency's role expanded provides more opportunity for citizens to have their cases reviewed quickly and fairly.

David Peterson, 20928 4th Place South, Agency Member

Mr. Peterson voiced support of the draft ordinance.

Mark Proulx, 26202 14th Avenue South, Agency Member

Mr. Proulx noted that he is in full support of the draft ordinance and would appreciate having 2 Councilmembers on the Agency.

As there were no further public comments, Mayor Thomasson closed the public hearing.

MOTION was made by Mayor Pro Tem Sheckler, seconded by Councilmember Towe, to approve Draft Ordinance No. 01-119 on second reading.

City Attorney McLean read the ordinance by title into the record.

Mayor Pro Tem Sheckler noted he supports the ordinance as he is in favor of strengthening the Agency's authority and felt the ordinance also provides the proper tools to do the job. He reminded Agency members that Councilmembers will not be part of the Agency.

Councilmember Towe stated that he has confidence in the Agency members. He noted that he does not feel it is necessary to have Councilmembers in attendance. He noted that the Mayor and Council have delegated the authority to make the proper recommendations to Council

Councilmember Brazil commented that he supports the draft ordinance and feels it clearly sets the rules for Agency guidance and it is not necessary for the Council to review or sit on the Agency.

Councilmember Sherman spoke in opposition to the ordinance. He feels that the ultimate decision making authority lays with Council. He is not in favor of yielding certain decision making authority. He stated that he believes the City is small enough to not have to delegate these kinds of decisions.

Councilmember Kaplan spoke in favor of the ordinance. He noted that he has a strong belief that these citizens on the Agency, who have a strong interest in their community, can and will do a good job.

VOTE ON MOTION: Motion passed 4 to 3 with Councilmembers Sherman and Wasson, and Mayor Thomasson voting NO.

City Manager Olander commented that it is important that communications remain open between the Council and Agency to convey any problems or concerns.

Councilmember Brazil encouraged citizens to review the adopted ordinance to become familiar with options that are available to them for review of various issues.

PUBLIC HEARING

Community Development Block Grant 2002 Allocations

Mayor Thomasson introduced the subject.

Community Development Director Kilgore advised that for the year 2002, \$231,872 of CDBG funds are available to the City of Des Moines. Except for decisions made by Council in April

2001, all remaining funds must be used to support capital projects that meet one of the three national objectives. She reviewed staff recommendations for allocation of the funds as follows:

- Senior Center Operations - \$40,296
- Planning and Administration - \$32,349
- Housing Repair - \$35,148
- Lutheran Community Services Northwest - \$5,000
- City of Des Moines - Senior Center Property Acquisition - \$39,079
- Lutheran Alliance to Create Housing (Angle Lake) - \$10,000
- Pacific Ridge Street Improvements - \$70,000

Councilmember Brazil questioned why staff would recommend funding for services that are in the City of SeaTac. Community Development Director Kilgore advised that, as in the past, multi-jurisdictional projects such as Lutheran Community Services and Lutheran Alliance, serve the citizens of Des Moines.

PUBLIC COMMENTS

Lisa Kiouss, Lutheran Alliance to Create Housing (L.A.T.C.H.) and R.Y. Woodhouse, Lutheran Community Services Northwest introduced themselves and said they would be happy to answer any questions.

As there were no further public comments, Mayor Thomasson closed the public hearing.

Upon questioning by Councilmember Sherman, Ms. Woodhouse assured Council that both agencies follow all Federal, State and local laws and guidelines regarding non-discrimination and fair housing. They informed Council that they are currently serving 181 Des Moines residents and expect that number to increase.

Mayor Thomasson questioned what improvements are planned for the Pacific Ridge Area. Public Works Director Heydon responded that using the Pacific Ridge Guidelines and standards the plan is to begin installing sidewalks from the east to the west. He advised that this will provide safe pedestrian links to the shopping areas.

Community Development Director Kilgore informed Council that she estimates that it will be a good ten years before this area changes from a low/moderate income neighborhood. She also noted that the \$70,000 will not complete these improvements from I-5 to Pacific Highway South.

City Manager Olander noted that this type of sidewalk development will help improve the Pacific Ridge Neighborhood. He advised that he and staff are reviewing ways that future developers may reimburse the City for improvements that are already installed.

Upon questioning by Mayor Thomasson, Community Development Director Kilgore noted that she did not recommend funding for two projects from the Park Department. They were 1.) Rehabilitating the Beach Park and adding an Interpretive Center and, 2) Assistance in design of the Sports Park.

City Manager Olander commented that the request for Sports Park design was questionable if it would even qualify. He also advised that historic and interpretive center at the Beach Park may be something Council might want to address, down the road, after a new Senior Center is built.

MOTION was made by Councilmember Sherman and seconded, to allocate the 2002 CDBG funds as recommended and listed by Administration in the City Council agenda item summary prepared for the August 9, 2001 City Council meeting, and that any reprogrammed funds or additional 2002 allocations be directed to the acquisition of the Senior Center land acquisition.

Councilmember Sherman spoke in support of the motion, and in particular, the Pacific Ridge improvements. He noted it cannot be predicted when this area will improve. In the meantime it will remain a depressed, high crime area, therefore these types of improvements are definitely needed.

VOTE ON MOTION: Motion passed unanimously.

9:02 p.m. Mayor Thomasson declared a 10 minute break. Mayor Pro Tem Sheckler left the Council meeting.

NEW BUSINESS

Interlocal Agreement for Warrant Services with Federal Way

Des Moines Police Commander Tucker informed Council that effective December 1999, anticipating budget shortfalls due to I-695, the City entered into an agreement with the City of Federal Way for warrant services, performance and processing. This allowed the City to close the police station during evening and weekend hours and reduce our records clerical staff. January 1, 2001, Federal Way increased the contract amount from \$46,200 per year to \$48,000. In March of 2001 the Federal Way Police Department noted significant impacts of Des Moines' high volume of warrants and advised the impact upon their records unit reflects a 28% increase in workload. To recover these increased costs, Federal Way requested the annual contract increase to \$180,000, with requested relief to occur within the 2001 budget year.

Commander Tucker advised that staff is recommending discontinuing the interlocal and hiring the number of employees necessary for ACCESS service, performance and processing. He noted this would allow the City to improve the quality and timeliness of data entry. He further advised that the records staff would be on duty at all hours for emergency notifications and call outs and to assist the on duty officers with other clerical needs. An additional benefit to this proposal would be the ability to re-open the police facility to the public on a 24 hour, 7-day a week basis. He concluded by informing Council that 3 FTE's would need to be hired, with an annual net increase of \$74,000. The hiring and training of the 3 record specialists will require 90 days. It is therefore requested that authorization be given to start the hiring process commencing August 15, 2001. This would allow the Police station be reopened on a 24-hour basis effective November 15, 2001.

MOTION was made by Councilmember Sherman, seconded by Councilmember Brazil, to terminate the interlocal contract with the City of Federal Way, hire three FTE's to perform the ACCESS (warrant) services, and open the records unit (police lobby) 24 hours a day at an annual net cost of \$74,000. Motion passed unanimously.

Sidewalk Exemptions in the Lower Zenith Neighborhood

Community Development Director Kilgore reminded Council that at the July 12, 2001 Council meeting, several residents from the lower Zenith neighborhood requested that the construction of sidewalks currently required for two development projects in the neighborhood be waived.

Community Development Director stated that based on review of the Des Moines Municipal Code, it is Administration's position that these two projects do not constitute a need to revise either the City's Street Standards or the municipal code. Further, Administration's position is that there are currently regulations and procedures in place that can adequately address unique neighborhood issues through the modified subdivision or PUD process. She also reminded Council that through findings of fact, the Council has broad discretion on conditioning the approval of a project. The construction of sidewalks is just one area where the Council can exercise this authority. She cautioned that to attempt to craft an exemption to the Municipal code and the Street Standards that would apply to the lower Zenith neighborhood, as opposed to general exceptions that would be applied citywide, may be deemed to be arbitrary and capricious. She concluded by stating that she feels strongly that appropriate procedures are in place to deal with these issues based on individual applications and immediate neighborhood circumstances and impacts.

City Attorney McLean advised that to create specific neighborhood plans would prove to be extremely time consuming and difficult, and could only be accomplished through passage of the appropriate ordinance or ordinances.

Mayor Thomasson remarked that to say residential neighborhoods do not need sidewalks, he would find hard to support. He noted that he does not want to see any Code amendments that would accomplish that.

Councilmember Kaplan felt that current processes in place provide adequate avenues for exemptions and therefore he sees no need to amend the City's codes. He suggested following staff's recommendations.

Councilmember Sherman questioned whether funds could be collected in lieu of sidewalks. City Attorney McLean advised that Council would have some flexibility through corporate findings.

Councilmember Wasson felt there should be some mechanism in place to allow neighborhoods to not have sidewalks if that was their decision.

City Attorney McLean reminded Council that there is liability associated concerning public rights-of-way. He also reiterated that exceptions to this could be considered arbitrary decision making. He noted that special circumstances would be the type of testimony Council is to consider, and Council must remember to consider impacts to the public.

After further discussion regarding whether the short subdivision at 239th and 7th could be modified since it is already in process, City Attorney McLean responded that he will prepare a Legal Opinion on the issue.

MOTION was made by Councilmember Wasson, seconded by Councilmember Towe, to direct Administration to plan for allowing exemptions to requirements of sidewalks in specific single family residential neighborhoods.

Councilmember Brazil questioned how you would define a neighborhood, where would boundaries be drawn. He noted he would not favor such a change.

VOTE ON MOTION: Motion failed 4 to 2 with Councilmembers Towe and Wasson voting YES.

NEXT MEETING DATE

Mayor Thomasson announced the next meeting will be a Study Session on September 6, 2001.

ADJOURNMENT

The meeting was adjourned at 10:09 p.m.

Respectfully submitted,

Denis Staab
City Clerk