

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

August 12, 2004

The regular meeting of Des Moines City Council was called to order by Mayor Sheckler at 7:37 p.m. in the Council Chambers, 21630 11th Avenue South, #B.

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

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Richard Benjamin, Gary Petersen, Dan Sherman, Maggie Steenrod and Susan White (left the meeting at 8:52 p.m.). Also in attendance were City Manager Tony Piasecki, Assistant City Manager Corbitt Loch, City Attorney Linda Marousek, Community Development Director Judith Kilgore, Harbormaster Joe Dusenbury, Assistant City Attorney Richard Brown, Park and Recreation Director Patrice Thorell, and Deputy City Clerk Angela Chaufty.

COMMENTS FROM THE PUBLIC

Steve Stevenson, 18122 47th Avenue South

Mr. Stevenson identified the following pros and cons associated with the new Marina rule regarding the storage of dinghys:

Pros

Docks are clear.
Dinghys are harder to steal.
Dinghys are out of the weather.

Cons

Removes convenience.
Transfers responsibility of dinghys to staff.
Requires staff training.
Increases liability of City for damage and theft of dinghys.

Mr. Stevenson said that the Marina staff was unable to launch his 13 foot dinghy with the dinghy launcher.

Walt Heft, 437 South 206th

Mr. Heft distributed the minutes of the June 7, 2004 and July 7, 2004 Fire District No. 26 Fire Commissioners meetings to Council.

As Mr. Heft was representing several individuals, Mayor Sheckler allowed him five minutes to speak.

Mr. Heft told Council that the Fire Commissioners had indicated that dinghy storage was a landlord-tenant issue and they did not wish to be involved. He reported that the Fire Marshal had denied telling the Harbormaster that the dinghys needed to be removed.

Jack Kniskern, 22602 13th Avenue South

Mr. Kniskern shared his future expectations for the Dictionary project and urged the City to participate in the funding of the program.

Ric Jacobson, 14518 SE 142nd Street, Renton

As President of Rotary Club, Mr. Jacobson informed Council that SCARE Productions would be moved out of the Sun Home Lodge in September. He noted that arrangements for the “Sipping on the Dock” wine festival were progressing.

John Ayar, 28754 5th Place South

Mr. Ayar told Council that his development project was two years behind schedule.

City Attorney Marousek noted that any comments regarding Mr. Ayar’s plat would be out of order as the issue was a quasi-judicial matter that had not yet been presented to Council.

Mr. Ayar distributed a letter to Council and asked them to resolve the issues identified in it. He said that the City needed to fix things to help development.

As the issue was a quasi-judicial matter, City Attorney Marousek noted that Council would need to disclose any communications regarding Mr. Ayar’s project when the subject was brought before them in open session.

George Pettibone, 23653 Marine View Drive

Mr. Pettibone requested an update on the status of a potential development moratorium for the Zenith neighborhood area.

Alli Larkin, 21937 7th Avenue South

Ms. Larkin thanked the City for their support of the Beach Naturalist Program. She noted that program naturalists had interacted with more than 22,000 visitors to the beach. Ms. Larkin voiced appreciation for Councilmember White’s efforts to preserve the beach. She also thanked Council for the Redondo Improvements and noted that she had a brief jellyfish video available for viewing.

BOARD & COMMITTEE REPORTS

Pacific Highway South Improvements

Councilmember Steenrod noted that an 18 inch yellow stripe had been painted on Pacific Highway South north of South 216th Street. Crossing the line was a traffic violation.

Economic Development

Councilmember Steenrod reported that the Economic Development Committee had met to review RFP’s for Economic Development and Land Use Code Update consultants.

South County Area Transportation Board

Councilmember Sherman informed Council that King County was considering placing a gas tax increase measure on the November ballot. The resulting money would be dedicated to road improvements and the money would be divided according to the state’s per capita formula. As the issue would be discussed at the next Board meeting, Councilmember Sherman asked Council for direction regarding the City’s position on the matter.

City Manager Piasecki noted that, if approved, the gas tax would result in approximately \$400,000 for Des Moines road improvements.

Councilmember Thomasson said that he did not have enough information to support the issue but that he was not opposed to letting it go before the voters.

Councilmember Steenrod agreed. She said that she was not in favor of a “go-around” tax.

Councilmember Benjamin displayed a “No Tax” sign.

Councilmember White voiced support for putting the issue before the voters.

Councilmember Petersen and Mayor Sheckler said that the public, rather than Council, should have an opinion on the matter.

Economic Development

Councilmember White reported that Council would soon interview the Economic Development and Land Use Code Update consultant finalists. She thanked Carmen Scott, City Manager Piasecki, and Park and Recreation Director Thorell for their efforts regarding historic preservation.

PRESIDING OFFICER’S REPORT

Kent-Des Moines Boundary Line

Mayor Sheckler reported that he had met with Mayor White from Kent to discuss boundary line issues. Staff was currently working on identified issues and the matter should be resolved soon.

2% Utility Tax

As a follow-up to the last meeting, Mayor Sheckler asked Councilmember Benjamin to clarify his position regarding the 2% utility tax.

Councilmember Benjamin said that his opinion was stated last week and he would see how things developed.

ADMINISTRATION REPORTS

King County Library District Bond Proposal

City Manager Piasecki introduced Bill Ptacek, Director of the King County Library System.

Mr. Ptacek displayed a video presenting the library system’s replacement bond measure which would be on the September ballot. He asked Council to adopt a resolution supporting the bond measure. Mr. Ptacek noted that the King County Library System was the second busiest library system in the nation.

CONSENT CALENDAR was read by Deputy City Clerk Chaufy.

1. Motion is to approve the special and regular minutes of July 8, 2004 and the regular minutes of July 22, 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 #95258 through #95594 & electronic fund transfers in the total amount of \$1,591,341.35

Payroll fund transfers in the total amount of \$466,266.39

3. Motion is to authorize the City Manager to sign the Professional Services Contract for the 2004-2005 Recycling Program between the City of Des Moines and Olympic Environmental Resources substantially in the form as submitted.
4. Motion is to purchase 400 square feet of land from Yoshikatsu Ono and Janet Towe, personal representative of the estate of Midori Ono, for the 24th Avenue South/South 216th Signal Project in the amount of \$4,800.00 plus closing costs and to authorize the City Manager to sign the Purchase and Sale Agreement substantially in the form as submitted.
5. Motion is to award the contract for professional consulting services for the 2004 Shoreline Master Program Update to Adolfsen in the amount of \$55,560, and authorize the City Manager or his designee to approve change orders up to an amount of 10%, and further to authorize the City Manager to sign said contract substantially in the form as submitted.

In response to Councilmember Steenrod's questioning, Community Development Director Kilgore confirmed that Consent Calendar Item Nos. 4 and 5 were completely funded by grant money. She would change the professional services compensation amount listed on Page 1 to \$55,560.

Councilmember Steenrod recused herself from voting on the vouchers as she had not had time to review them.

City Attorney Marousek confirmed that the consultant agreement for Item No. 5 was consistent with the City's contract standards.

Mayor Pro Tem Thomasson said that he would not support a consultant contract in the future that was not in the city's standard format.

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

OLD BUSINESS

Draft Resolution No. 04-138 [Assigned Res. No. 977] City Council Rules of Procedure, Rule 20, Board & Committee Reports - 2nd Reading

Assistant City Attorney Brown introduced the subject.

MOTION was made by Councilmember White and seconded by Councilmember Sherman to adopt Draft Resolution No. 04-138 amending Rule 20 of the City Council Rules of Procedure.

Councilmember Benjamin said that the proposed resolution was designed to limit discussion during Board and Committee Reports and was a control mechanism to muzzle him. He said that he would not support the motion and he would continue broadcasting truth in whatever forum necessary.

Councilmember White said that the proposed resolution was intended to increase Council's productivity at their meetings.

Councilmember Sherman said that the proposed resolution provided a formal process for Council to address issues not on the agenda nor covered by Board and Committee Reports. He said that Draft Resolution No. 04-138 provided fairness to all members of Council.

City Manager Piasecki confirmed that the City's resolutions were available on the City's website.

Councilmember Steenrod asked that the Council Rules of Procedure also be placed on the website. She voiced support for the new section but said that she would not support the motion due to the time limits. She felt that the resolution would give the Mayor more control than intended.

City Manager Piasecki noted that the Council Rules of Procedure were available on the Municipal Research website. A link to their website could be created.

VOTE ON MOTION: Motion passed, 4 – 3, with Councilmembers Benjamin, Petersen, and Steenrod opposed.

At 8:52 p.m., Mayor Sheckler declared a ten-minute break.

Councilmember White left the meeting.

NEW BUSINESS

Marina Policy - Overhead Storage of Dinghies

Harbormaster Dusenbury reviewed the storage policies of the Ports of Everett and Edmonds. He said that Des Moines Marina tenants were given an overhead storage shelf. Storage of explosive or flammable materials was not allowed on the shelves or the docks. Harbormaster Dusenbury displayed pictures of various code and safety violations at the Marina as well as dingy storage methods. He identified the following dinghy storage options:

- Store the dinghy on the boat.
- Store the dinghy in dry storage for \$15 per month.
- Store the dinghy at home and launch it at the Marina for no fee.
- If necessary, obtain a larger slip to store the dinghy with the boat.

Harbormaster Dusenbury read Fire District No. 26's inspection report dated July 29, 2004. He recommended that Council not change the current policy of the Marina. If Council wished to change the policy, he encouraged them to first discuss any proposed changes with the fire department, the City Attorney, and the City's insurance carrier.

In response to Councilmember Petersen's questioning, Harbormaster Dusenbury said that he did not anticipate the policy causing a congestion problem at the Marina. He felt that the anticipated labor costs were minimal compared to the liability issues involved. In response to Councilmember Benjamin's comments, Harbormaster Dusenbury explained that the fire

department mandates compliance with code issues but only provides recommendations for fire and safety issues.

City Manager Piasecki reiterated staff's recommendation to maintain the current policy.

Without hearing from the fire department, Councilmember Benjamin said that it was an appearance of fairness issue. He stated that two options cost the tenants money and one option was a hassle.

MOTION was made by Councilmember Benjamin and seconded by Councilmember Steenrod to allow Marina tenants to operate as they have been for several years and store dinghys overhead.

Mayor Pro Tem Thomasson said that he was not inclined to overrule the Harbormaster's decision. He encouraged the Harbormaster to work with the tenants to resolve the issue.

Councilmember Steenrod recommended that the tenants be allowed to hang their dinghys but not store fuel overhead. She stated that safety education at the Marina needed to be enhanced. Councilmember Steenrod said that, since the perception was that the Hearing Examiner was not necessarily objective, tenants should be able to address Council with their issues.

Councilmember Sherman voiced concern with safety issues involving the overhead storage of dinghys. He said that Council should continue to allow the City Manager to manage the rules at the Marina and not micromanage.

Councilmember Petersen suggested that overhead storage of dinghys be allowed directly above the boats. Then, if a fire occurred, the dinghy would fall into the boat.

VOTE ON MOTION: Motion failed, 3 – 3, with Mayor Sheckler, Mayor Pro Tem Thomasson, and Councilmember Sherman opposed.

Airport Communities Coalition - Policy Issues Decisions

Councilmember Steenrod said that she had originally placed the issue on the agenda as a result of ACC filing an appeal of the Port of Seattle's 401 permit. She felt that Council should have voted to direct the ACC delegate to vote on the policy prior to action being taken. After attending the previous executive session, she would not take action on this matter. Instead, Councilmember Steenrod asked Council to look at all interlocal agreements carefully to ensure that Council authority was not given to an executive committee. She said that Council should review their policies regarding Council's litigation and appeal positions. Councilmember Steenrod asked that the possible withdraw of the City of Des Moines from the ACC be placed on the August 19, 2004 agenda.

Councilmembers Benjamin and Petersen concurred.

Mayor Pro Tem Thomasson clarified that the action had not been the instigation of a lawsuit but an appeal of a permit. The action was within the authority of the Executive Committee. He agreed that Council should be consulted prior to the City entering a lawsuit. Mayor Pro Tem Thomasson identified the larger question as the scope of authority of delegates to all committees and boards. Council's adopted policy issues document serves as guidance for the delegates.

Councilmember Sherman concurred with Mayor Pro Tem Thomasson's comments. He stated that he was satisfied with the ACC delegate's execution of the interlocal agreement. Councilmember Sherman said that, if the ACC continued, they would monitor the project for sound environmental practices.

Councilmember Steenrod clarified that, upon review of the agreement and the City's policy papers, she understood the delegate's action. Her issue was not with the decision made but with interlocal agreements in general. Communication should be spelled out in the agreements. Councilmember Steenrod recommended that Council set standards for interlocal agreements to avoid future litigation.

Draft Ordinance No. 04-158 Budget Amendment - Public Works Equipment - 1st Reading

MOTION was made by Mayor Pro Tem Thomasson and seconded by Councilmember Sherman to suspend Rule 26(b) in order to adopt Draft Ordinance No. 04-158 on the first reading. **VOTE ON MOTION**: Motion failed, 3 – 3, with Councilmembers Benjamin, Petersen, and Steenrod opposed.

MOTION was made by Councilmember Sherman, seconded by Councilmember Steenrod, to move Draft Ordinance No. 04-158 to a second reading, relating to municipal finance amending the 2004 budget adopted in Ordinance No. 1333 by reducing the Equipment Replacement Fund ending fund balance by \$62,000 to allow for purchase of a replacement Public Works Surface Water Management backhoe. **VOTE ON MOTION**: Motion passed, 5 – 1, with Councilmember Benjamin opposed.

Draft Ordinance No. 04-068 and Interlocal Agreement with King County Regarding Historic Preservation - 1st Reading

Park and Recreation Director Thorell introduced the subject. She briefly reviewed the provisions of Draft Ordinance No. 04-068.

City Manager Piasecki confirmed that the proposed ordinance reflected Council's prior direction.

Mayor Pro Tem Thomasson recommended that language clarifying that the provisions of the proposed ordinance were limited to city-owned property be included in the body of the ordinance.

MOTION was made by Councilmember Sherman, seconded by Councilmember Benjamin, to adopt the Interlocal Agreement between the City of Des Moines and King County for Landmark Designation and Protection Services for City owned property using the criteria and procedures adopted in King County Ordinance 10474, King County Code (KCC) Chapter 20.62 within the City limits.

Mayor Pro Tem Thomasson and Councilmember Sherman recommended that the process for appointing a special member to the King County Commission be included in the proposed ordinance.

VOTE ON MOTION: Motion passed unanimously.

MOTION was made by Councilmember Steenrod, seconded by Councilmember Sherman, to pass Draft Ordinance No. 04-068 to a second reading for consideration at the next available City Council meeting.

As maker and seconder of the motion, Councilmembers Steenrod and Sherman confirmed that the draft ordinance should include the two issues previously identified in the discussion.

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

NEXT MEETING DATE – Special Meeting, August 19, 2004 at 6:00 p.m.

(Editor's Note: The special meeting of August 19, 2004 was later cancelled. The next meeting date will be September 2, 2004.)

ADJOURNMENT

At 10:28 p.m. **MOTION** was made by Mayor Sheckler, seconded by Mayor Pro Tem Thomasson and passed unanimously, to adjourn the meeting.

Respectfully submitted,

Angela M. Chaufy
Deputy City Clerk