

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

November 18, 2004

The regular meeting of the Des Moines City Council was called to order at 7:05 p.m. by Mayor Sheckler in the City Council Chambers, 21630 11th Avenue South, Suite 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. Also present were City Manager Tony Piasecki, City Attorney Linda Marousek, Community Development Director Judith Kilgore, Finance Director Paula Henderson, Park and Recreation Director Patrice Thorell, and Deputy City Clerk Angela Chaufy.

COMMENTS FROM THE PUBLIC

Carmen Scott, 917 South 222nd

On behalf of the Des Moines Legacy Foundation, Ms. Scott announced that calendars were available for purchase.

Janise Disbrow, 22724 ½ 10th Avenue South

Ms. Disbrow informed Council that many people were surprised to learn that flooding has put the Des Moines Beach Park's buildings at risk. She said that Ms. Scott and Park and Recreation Director Thorell had completed paperwork to register the facility with the National Federal Historic Register. She recommended that the dining hall be converted to a dinner theater and the tabernacle be restored to a chapel for weddings and conferences. Ms. Disbrow suggested that the public contact their state legislators to request support for the listing of the facility on the Federal Register, contribute financially to the Des Moines Beach Park via the Des Moines Legacy Foundation, and volunteer on work days.

George Pettibone, 23653 Marine View Drive

Mr. Pettibone said that the Appearance of Fairness Doctrine could be violated if people on the Planning Agency were related to Councilmembers. He said that the combination was not palatable.

Mayor Sheckler noted that the issue had been raised at a previous meeting. It was determined that no conflict or violation existed.

BOARD & COMMITTEE REPORTS

South County Area Transportation Board

Councilmember Sherman said that in 2007 a pilot project to gauge the effectiveness of charging single-occupancy vehicles a toll to use HOV lanes on SR-167 would be conducted. In addition, a study of the affect of GPS routing on road volumes would be conducted on the I-5 corridor north of Des Moines.

Suburban Cities Association

Councilmember Sherman reported that the Association had passed new bylaws to restructure the organization. Each city has been asked to select a Councilmember to serve as a voting member of the Association and to appoint a representative to the Public Issues Committee. He nominated Councilmember White for these positions.

Mayor Sheckler said that the item would be placed on the next consent calendar.

Economic Development

Councilmember White announced that the City would receive money to fund economic development architectural work to be performed by University of Washington students. A meeting of the Economic Development Committee was scheduled for November 19, 2004.

PRESIDING OFFICER'S REPORT

Mayor Sheckler reported that the Port of Seattle Commission President had scheduled a Highline Forum to focus on the relationship between the Port of Seattle and surrounding cities.

COUNCILMEMBER COMMENTS

2005 Budget

Councilmember Benjamin proposed the following budget balancing measures:

1. Obtain an agreement with the Port of Seattle to put \$2,000,000 in the General Fund. Allow the Port to move dirt from its property.
2. Eliminate all pay and benefits for Councilmembers.
3. Keep cuts and expenditures in Personnel already identified and recommended by Administration.
4. Reduce the City Manager's benefits.
5. Require each department head to cut their budgets by 8%. If the 8% cut was not achieved, reduce the particular Department Director's compensation.
6. Do not purchase any new vehicles for any department.
7. Enter into an agreement to rent a backhoe, possibly from Water District No. 54.
8. Eliminate the legal department and contract with the private sector for legal services.
9. Do not transfer any funds to the MCI Fund in 2005.
10. Transfer any remaining Airport Defense Funds to the General Fund.

Councilmember Steenrod requested that Councilmember Benjamin provide Council with a written list of his proposed budget balancing measures.

Department of Housing and Urban Development Meeting

Councilmember Steenrod informed Council that she had attended the Department of Housing and Urban Development meeting on November 17, 2004. The purpose of the meeting was to allow smaller cities to compete for Housing Urban Development (HUD) funding and to offer their services to the jurisdictions. The International Building Code, affordable housing, the Plan to Remove Chronic Homelessness and the American Dream Down-Payment Program were discussed. She distributed a notebook from the meeting. Councilmember Steenrod asked that a representative of the plan to eradicate homelessness address Council at a meeting in January or February. Matching funds for the program were available.

Survey of Judges

Councilmember Sherman noted that the King County Bar Association had given Des Moines Municipal Court Judge Colleen Hartl over a 90% "Above Satisfactory" rating. He expressed his confidence in her services. A new survey will be completed in 2005.

2005 Budget

In regard to Councilmember Benjamin's previous comments, Councilmember Sherman said that he found it disturbing that Councilmember Benjamin had divided the Council from the public. Councilmember Sherman said that the City, rather than Council, had a budget problem. He said that Councilmember Benjamin's comments also indicated that he had separated himself from the rest of Council.

Councilmember White questioned whether Councilmember Benjamin had written his own speech.

Councilmember Benjamin said that he wrote his own material.

Councilmember Petersen commented that some of Councilmember Benjamin's proposals could be studied. It was important to listen to all concerns and develop a solution.

Mayor Sheckler reiterated that City representatives were meeting with the Port of Seattle in mid-December. Therefore, no money would be coming from the Port this year. He said that sustainable funds were needed for the budget. In regard to the recommendation to eliminate all benefits to Councilmembers, Mayor Sheckler noted that per State law any action taken would not affect Councilmembers until 2006.

Upon questioning from Mayor Sheckler, Councilmember Benjamin confirmed that his recommended 8% departmental cuts included the Police Department. He said that the 8% cut could be achieved by delaying the purchase of new vehicles and implementing new efficiencies in the department. He confirmed his belief that contracting for legal services with the private sector would reduce costs.

ADMINISTRATION REPORTS

International Building Code

City Manager Piasecki reported that the City has been using the International Building Code since July 1, 2004. It is schedule for adoption by Council in January 2005.

Port of Seattle Discussions

City Manager Piasecki reported that discussions with the Port of Seattle were going well.

Council Review Process

City Manager Piasecki stated that he would propose a revised review process for Council in January. The process would include sending more items through committee, establishing standing committee meeting times, and conducting four mini-retreats to deal with strategic issues.

COUNCILMEMBER COMMENTS, CONTINUED

Salvation Army Letter

Councilmember Steenrod asked Council to respond to the Salvation Army's letter regarding the possible construction of a Ray and Joan Kroc Corps Community Center in Des Moines.

MOTION was made by Councilmember Steenrod and seconded by Councilmember Benjamin to send a response to the Salvation Army and ask that Des Moines be placed on their list of interested cities.

Councilmember Steenrod recommended that Council send the letter immediately to express interest and keep the option open and to schedule the topic for Council discussion.

Councilmember Sherman asked the City Manager to contact San Diego to see how their center was operating and the pros and cons associated with it.

VOTE ON MOTION: Motion passed unanimously.

CONSENT CALENDAR was read by City Attorney Marousek.

1. Motion is to approve the regular minutes of October 28, 2004.

2. ~~Draft Ordinance No. 04-246—Title: An Ordinance of the City of Des Moines, Washington, relating to revenue and finance and amending DMMC 3.48.070.~~

~~TWO MOTIONS: First motion is to suspend Council Rule 26(b). Second motion is to approve Draft Ordinance No. 04-246.~~

3. Motion is to authorize the City Manager to sign the equipment installation contract with JW Tel-Tronics, Inc. for the PEG channel upgrade. The contract shall be in the amount of \$41,235.00 and shall be in a form as approved by the City Attorney.

4. TWO ITEMS:

~~A. Draft Resolution No. 04-247—Title: A Resolution of the City of Des Moines, Washington adopting a Retiree Health Savings Plan for employees covered under the City of Des Moines and General Employee Compensation Agreement and for those employees eligible for equitable benefits under DMMC 2.12.010.~~

~~MOTION is to approve Draft Resolution No. 04-247 and authorize the City Manager to sign the agreement substantially in the form as submitted.~~

~~B. Draft Resolution No. 04-247A—Title: A Resolution of the City of Des Moines, Washington adopting a Retiree Health Savings Plan for the City Manager, Assistant City Manager and Department Heads.~~

~~MOTION is to approve Draft Resolution No. 04-247A and authorize the City Manager to sign the agreement substantially in the form as submitted.~~

5. Motion is to reject the bid received for the two new boarding floats for the Redondo Boat Ramp and direct staff to re-bid the project after the first of January 2005.

Councilmember Steenrod removed Item No. 4. She noted that she did not have Item Nos. 4 and 5 in her packet. She questioned why the bids were being rejected in Item No. 5.

Councilmember Steenrod was provided with a copy of Item Nos. 4 and 5.

Councilmember Sherman removed Item No. 2.

In response to Councilmember Steenrod's questioning regarding Item No. 5, Harbormaster Dusenbury explained that the one bid received was substantially higher than the estimate. Council must reject the bid in order to re-advertise for the project.

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

REMOVED CONSENT CALENDAR ITEMS

Resolution Nos. 04-247 [Assigned Res. No. 981] and 04-247A [Assigned Res. No. 982] – Retiree Health Savings Plan

In response to Councilmember Benjamin's questioning, City Manager Piasecki confirmed that employees employed up to three years were eligible to carryover 240 hours of vacation into their fourth year. He explained that employees would contribute to the proposed RHS Plans with their own money.

MOTION was made by Councilmember Benjamin, seconded by Mayor Pro Tem Thomasson, and approved unanimously to approve Draft Resolution No. 04-247 and to authorize the City Manager to execute such documents as necessary to implement the Plan.

MOTION was made by Councilmember Benjamin, seconded by Mayor Pro Tem Thomasson, and approved unanimously to approve Draft Resolution No. 04-247A and to authorize the City Manager to execute such documents as necessary to implement the Plan.

Draft Ordinance No. 04-246 [Assigned Ord. No. 1352] – Amending Ordinance 1189 for Annual Contribution to Municipal Capital Improvements Fund

Finance Director Henderson introduced the subject.

In response to Mayor Pro Tem Thomasson's questioning, City Manager Piasecki confirmed that Ordinance 652 referred to real estate excise tax money.

MOTION was made by Councilmember Sherman and seconded by Mayor Pro Tem Thomasson to suspend Council Rule 26(b). **VOTE ON MOTION**: Motion passed, 6 – 1, with Councilmember Benjamin opposed.

MOTION was made by Councilmember Sherman, seconded by Councilmember White, and passed unanimously to approve Draft Ordinance No. 04-246, relating to revenue and finance and amending DMMC 3.48.070.

At 8:17 p.m., Mayor Sheckler declared a ten-minute break.

PUBLIC HEARING

Draft Ordinance No. 04-250 Adopting 2005 Budget - 1st Reading

Mayor Sheckler opened the public hearing. He read the rules for conducting a public hearing and noted that the rules would apply to this and the next hearing.

Finance Director Henderson displayed a chart of the budget gap. She noted that the proposed ordinance reflected the base budget with the City Manager's recommendations.

Mayor Sheckler called for speakers three times.

None responded.

Councilmember Sherman voiced disappointment that the public had not responded to Council's request for recommendations for cuts.

Mayor Sheckler closed the public hearing.

MOTION was made by Mayor Sheckler, seconded by Councilmember Benjamin, and passed unanimously to continue the item to the next available meeting to be determined by the Mayor and City Manager.

Draft Ordinance No. 04-234 - 2004 Comprehensive Plan Amendments - 1st Reading

Mayor Sheckler opened the public hearing. He noted that the public hearing rules read previously would apply to this hearing. Mayor Sheckler said that the speakers would be allowed to address Council first due to staff's lengthy presentation. He called for speakers.

SPEAKERS

Peter Skelly, 23622 7th Avenue South

Mr. Skelly distributed a letter (Exhibit #1) to Council. He stated that he wanted a store or coffee shop on the Zenith property. If that was not possible, he said that the property should be zoned single-family. Mr. Skelly said that the proposed land use change would be consistent with the Des Moines Comprehensive Plan. As the Comprehensive Plan provided guidance to Council and the Planning Agency, he urged adoption of the new land use designation for the Zenith property.

George Pettibone, 23653 Marine View Drive

Mr. Pettibone said that many small changes to the Comprehensive Plan were objectionable, particularly the N-C zoning for one lot. He requested that the proposed Comprehensive Plan change the zoning back to RS-15,000.

Jerry Bergman, 23659 7th Avenue South

Mr. Bergman said that Council should consider the potential financial impact to surrounding properties owners caused by a rezone. He challenged Councilmember White's qualifications to participate in the hearing due to the appearance of fairness issue.

Mayor Sheckler called for additional speakers.

None responded.

City Attorney Marousek stated her legal opinion that Councilmember White's participation in the matter was not a conflict of interest as a Councilmember could serve as a voting member of the Planning Agency. She explained that a conflict of interest, as defined by state law, means a financial interest in the issue.

At 8:52 p.m., Mayor Sheckler recessed the meeting for five-minutes in order to allow the City Attorney to discuss the issue with Councilmember White.

City Attorney Marousek informed Council that Councilmember White would not recuse herself from participation in the hearing as she had no financial interest involved and, as the Comprehensive Plan related to the entire City, she believed it to be her responsibility as a Councilmember to participate. City Attorney Marousek listed the questions asked of Councilmember White and Councilmember White's responses to them that were used to determine if the fairness issue was involved.

Community Development Director Kilgore informed Council that the Comprehensive Plan must be adopted by December 1, 2004. She said that Council could either adopt an imperfect plan or prepare a resolution outlining what the City has done, what it is going to do, and a firm timeline for the process. The second option could subject the City to sanctions which could affect the City's ability to apply for grants. Community Development Director Kilgore identified the following policy issues before Council:

1. Urban Density – When the method of calculating density is applied to the net density of each area, the City does not meet the Central Puget Sound Growth Management Hearing Board's standard of at least four dwellings per net acre. When the calculation is applied to gross density, however, it does. The Suburban Estate, Suburban Residential, RS-15,000, and RS-9,600 zones were identified as problematic.
2. Accessory Dwelling Units – State law states that cities with populations of over 20,000 must allow accessory dwelling units in single-family zones. The accessory dwelling units are defined as facilities with separate kitchen areas. This provision is in conflict with the City's code which states that accessory dwelling units cannot have kitchen facilities.
3. Townhouse Application Process
4. Street Tree Regulations

Community Development Director Kilgore introduced Consultant Steve Schunzel.

Mr. Schunzel reviewed the process used to update the maps.

Community Development Director Kilgore distributed a letter from the Department of Community, Trade and Economic Development (CTED) dated November 12, 2004 (Exhibit #2). She highlighted the following concerns identified by the letter and her recommendations:

1. Urban Density – Community Development Director Kilgore recommended acceptance of CTED's recommendation to change the map to have one single-family residential designation. Then, regardless of zoning code actions, the comprehensive plan would be consistent. She also recommended that Council begin discussion of zoning code policy issues even if they are outside of the land use code.

2. Accessory Dwelling Units – Community Development Director Kilgore recommended striking “without kitchen unit” in order to make consistent with State law.
3. Maps – The maps cannot be changed without Council direction. If changes are desired, the process would require additional SEPA work and public notification.
4. Townhouses – Community Development Director Kilgore recommended the adoption of proposed language changes.
5. Street Trees – Community Development Director Kilgore requested Council direction.
6. Capital Facility Utility and Transportation Elements – Community Development Director Kilgore recommended that summaries of the major plans be included as an appendix so that they can be updated easily. Add language stating that the City will continue to work with water and sewer providers to provide services.
7. Citing of Public Facilities – Information needs to be completed.
8. Open Space Corridor – Information needs to be identified as being a part of the Parks Element.
9. Shoreline Master Program – The document is being written by a consultant and will be a separate chapter in the Comprehensive Plan.
10. Job Target – Community Development Director Kilgore will respond to the concerns.
11. Housing – Affordability analysis will be part of the Economic Development Strategies.

As part of the Comprehensive Plan process, Community Development Director Kilgore said that Council would also need to review the global issues through a chapter and ordinance review.

Mayor Pro Tem Thomasson noted that the Plan was originally identified as the “Greater Des Moines Comprehensive Plan” as it defined surrounding buffer areas in order to express opinions regarding development in surrounding cities.

Community Development Director Kilgore said that when a City was built out with no more land to annex, the Plan title was changed to “City of Des Moines”. The City could still comment on other cities’ plans, however. The proposed maps represented current zoning rather than Des Moines’ preferences for other cities’ zoning.

Mayor Pro Tem Thomasson commented that for a specific area in Kent, the Des Moines’ map showed townhouses while the same area was designated commercial in Kent’s maps. He said that Council should discuss these issues while reviewing specific maps.

In response to Mayor Pro Tem Thomasson’s questioning, Community Development Director Kilgore said that the information in Chapter 1-02-02 was still true, Burien should be included in Chapter 1-02-04, information regarding the latest GMA update would be included in Chapter 1-02-05, and Council direction was needed in Chapters 1-02-06 and 1-02-07. She suggested that a Council committee monitor the Comprehensive Plan document on an on-going basis.

Mayor Pro Tem Thomasson questioned whether the Comprehensive Plan should be remanded to the Environmental Committee.

In response to Councilmember White's questioning, Community Development Director Kilgore said that failure to take action on the Plan by December 1, 2004 could preclude the City from applying for certain grants. She recommended that Council adopt an imperfect plan and spend time at their meeting next Tuesday reviewing the proposed ordinance changes. Community Development Kilgore also recommended that Council begin the Comprehensive Plan process in January so that it would not compete with the budget process.

City Attorney Marousek said that failure to take action on the Plan could expose the City to a lawsuit from the Friends of Washington regarding the density issue. She noted that some Comprehensive Plan changes would require SEPA and public hearing notification.

At 10:00 p.m., Mayor Sheckler announced that he needed to leave the meeting. He turned the meeting over to Mayor Pro Tem Thomasson.

Councilmember Sherman said that he was not comfortable passing an imperfect plan. He suggested that Council set a schedule to review one to two chapters of the Comprehensive Plan per month.

Community Development Director Kilgore urged Council to change the dates in the proposed ordinance.

Councilmember Steenrod suggested that Council adopt the proposed ordinance now in order to stay in compliance and then begin changing it in January.

Mayor Pro Tem Thomasson voiced his preference for adopting a resolution establishing a review and adoption process.

MOTION was made by Councilmember Steenrod and seconded by Councilmember Benjamin to continue the hearing to Tuesday, November 23, 2004 at 7:30 p.m.

Councilmembers Sherman and White said that they were not available to meet on November 22 or 23, 2004.

It was recommended that Council review the Capital Improvement Plan at 7:00 p.m. and the Comprehensive Plan at 8:00 p.m. on November 23, 2004.

Upon questioning regarding any grants that might be restricted due to delayed action, Park and Recreation Director Thorell said that the City had been awarded a grant for the second half of a Steven J. Underwood Park project that may be affected.

City Attorney Marousek said that the Central Puget Sound Growth Management Hearing Board has ruled that cities must have at least four dwelling units per acre.

Mayor Pro Tem Thomasson asked staff to prepare a resolution in case Council chose to delay adoption of the proposed ordinance. He recommended that the City mail the existing Comprehensive Plan to the State.

Councilmember Steenrod asked that the City publicize the meetings and allow the neighborhoods to comment. She also requested that a table of contents be developed.

VOTE ON MOTION: Motion passed unanimously.

NEW BUSINESS

Draft Resolution No. 04-251 2005-2010 CIP

MOTION was made by Councilmember Benjamin, seconded by Mayor Pro Tem Thomasson, and passed unanimously to continue the CIP to November 23, 2004.

NEXT MEETING DATE – Special Meeting, 7:30 p.m., November 23, 2004

ADJOURNMENT

At 10:20 p.m., **MOTION** was made by Councilmember Sherman and seconded by Councilmember White to adjourn the meeting. **VOTE ON MOTION:** Motion passed, 5 – 1, with Councilmember Steenrod opposed.

Respectfully submitted,

Angela M. Chaufy
Deputy City Clerk

ACTION ITEM FROM 11/18/04 MEETING

- Schedule the selection of a Suburban Cities Association representative on the next consent calendar.
- Send response to Salvation Army's letter.
- Prepare a resolution regarding the Comprehensive Plan amendment and adoption process.