

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

October 16, 2008

The regular meeting of the Des Moines City Council was called to order at 7:33 p.m. by Mayor Sheckler In the Council Chambers, 21630 11th Avenue South, #B.

PLEDGE OF ALLEGIANCE to the flag was led by Councilmember Pina.

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Dan Sherman, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, and Susan White. Also in attendance were Assistant City Manager Lorri Ericson, Finance Director Paula Henderson, Planning Building and Public Works (PBPW) Director Grant Fredricks, Planning Manager Denise Lathrop, Land Use Planner II Jason Sullivan, Associate Transportation Engineer Brandon Carver and Clerk Autumn Lingle.

BOARD & COMMITTEE REPORTS & COUNCILMEMBER COMMENTS

Des Moines Calendar

Councilmember Scott announced the Des Moines 2009 Calendar featuring events, comments and pictures of Des Moines is now available for purchase at The Field House, Senior Center, Des Moines Drug, Marine View Florist and The Farmers Market. Cost is \$5.00.

Public Safety & Transportation Committee

Councilmember Kaplan stated the committee focused on budgetary issues and Capital Improvement Plan (C.I.P.) for 2009. There will be ongoing discussion about the C.I.P. as it relates to streets and other capital projects. The forecast is less than optimistic.

Suburban Cities Association

Councilmember Pina noted that many topics were addressed and he urged Council to read the minutes. He would like feedback from them in time for the next meeting, which will be the first Wednesday in November.

Environment Committee

Councilmember Thomasson stated a meeting is scheduled for next Thursday, the 23rd of October at 6:00 p.m.

Des Moines Creek Basin Celebration

Councilmember White noted that she, along with Councilmember Thomasson and Mayor Sheckler attended The Des Moines Creek Basin Celebration. She confirmed it was beautiful and thanked Councilmember Thomasson for his commitment to the project.

City of Des Moines budget

Councilmember White stated she met with the Assistant City Manager Lorri Ericson and the Finance Director Paula Henderson to ascertain information relative to the 2009 budget. In addition, she noted her preference is to keep City employees rather than spend money on the City of Des Moines 50th Anniversary. She issued an invitation to the public to attend the Budget Meeting on Saturday, October 25, 2008. She was unable to attend the Town Hall meeting that featured King County Executive Ron Sims due to a conflict in her schedule. She stated Suburban

Cities Association will be attending and is a good voice for all the cities with their budget struggles in the current economy.

Tax and Lodging Committee

Councilmember White stated she will be attending a meeting with the Tax and Lodging Committee and she will give an update at the next Council meeting.

King County Public Health Board

Mayor Pro Tem Sherman noted he attended a meeting with the King County Public Health Board. King County is reducing it's funding over the next few years to King County Public Health (K.C.P.H.). The budget of K.C.P.H. is \$192 million dollars. Some of the services closing due to the reduction in funding are:

- South King County Public Health site
- Northshore Public Health Center
- Zoonotic Disease Surveillance and Prevention
- Preventive Oral Health Program in schools
- S.T.D. services to high risk teens
- Child care health
- Nurse and nutrition education

K.C.P.H. is working to find alternate means of funding. Options include but are not limited to a countywide utility tax, a countywide real estate excise tax (R.E.E.T.); Setting up an independent countywide public health district with independent property tax authority, a motor vehicle excise tax, sales tax on bottled water and bottled beverages, and a hazardous substance tax. The State must approve these options before they are implemented.

King County normally funds K.C.P.H. \$31 to \$32 million and is reducing that over 3 years to \$27 million. K.C.P.H. receives funding from the Ryan White Care Act, State Aids Omnibus Act, Medicaid, \$13 million from the Seattle General Fund, Federal Qualified Health Center Funds and direct billing fees for services they provide such as restaurant inspections, permits, and on site sewage permits. The board did vote to send those options to the State to see which ones are allowed.

Bus Route

Mayor Pro Tem Sherman stated bus route 156 would benefit the City of Des Moines. It would travel from downtown Des Moines to the Tukwila rail station. Proposed schedule is weekday peak hours 6-9 a.m. and 3-6 p.m. every 30 minutes, midday hours every 60 minutes. One bus will have a direct connection to Southcenter. He asked the Council if they would be interested in sending a letter requesting weekend service. PBPW Director Fredricks stated that the City had previously sent a letter endorsing Route 156. Included in that letter was a request that Metro not redirect service hours on this route elsewhere. The City will draft a follow-up letter to King County Executive Ron Sims supporting Route 156 and encourage him to have the Route operate on the weekends.

Police Presence in the Redondo Community

Councilmember Susan White noted the residences of the Redondo Community are concerned about increasing car prowls and burglaries in their neighborhood. They want a more visible police presence in the area. Assistant City Manager Ericson acknowledged the request and will pursue a solution.

CONSENT CALENDAR was read by Clerk Lingle.

1. Motion is to approve the regular minutes of September 25, and the special minutes of September 27, 2008.
2. Draft Resolution No. 08-229 - Title: A Resolution of the City Council of the City of Des Moines, Washington, regarding wages, hours and working conditions for Non-Union Employees for the period January 1, 2008 to December 31, 2008.

MOTION is to adopt Draft Resolution No. 08-229.

Mayor Sheckler called for all who support the approval of the Consent Calendar as amended to raise their hand and say aye. Vote was unanimous.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Pina, to approve Draft Resolution No. 08-229 adopting an agreement between the City of Des Moines and the General Employees for the period January 1, 2008 to December 31, 2008 authorizing the City Manager to sign agreement substantially in the form as attached and that the terms and conditions established in this Agreement shall apply to all non-union employees.

MOTION was made by Councilmember Kaplan to correct dates in attachment to read January 1, 2008 to December 31, 2008.

VOTE ON MOTION: Motion passed unanimously for date corrections to the attachment.

Mayor Pro Tem Sherman stated that he would not approve Draft Resolution No. 08-229. He added that he has not approved any of the wage agreements this year. He stated he has budgetary concerns and noted that employees should be paying a higher percentage of their health care costs.

Councilmember Kaplan noted that this Draft Resolution No. 08-229 is for this year, 2008 only.

Councilmember Thomasson queried if there are any other bargaining agreements still undocumented for 2008.

Assistant City Manager Ericson stated there was not, however she did not know specifically what extra they may have received above COLA but would review the information.

VOTE ON MAIN MOTION: Motion passed 6 to 1 with Pro Tem Sherman opposed.

PUBLIC HEARING

Draft Ordinance No. 08-223 Downtown Commercial Parking Requirements - 1st Reading and Draft Ordinance No. 08-224 Alternatives for Offsite Parking Agreements - 1st Reading

Land Use Planner II Jason Sullivan noted these are two ordinances combined; both are modifications to the City's parking code and are designed to facilitate redevelopment within the Downtown Neighborhood. He explained Ordinance No.08 -223 addresses a parking wavier that Council directed staff to develop. Ordinance No. 08-224 was developed at the request of the Council to establish an alternative mechanism to FACILITATE off-site parking agreements.

Draft Ordinance No. 08-223

Land Use Planner Sullivan noted this ordinance is subject to State Environment Policy Act. (S.E.P.A.). The S.E.P.A. review has been completed and the comment period has expired with no comments. The appeal period closes in ten days. A second reading is required because final action can only be taken after the appeal period is closed. The waiver contains four main key points.

1. Waives customer parking requirements only.
2. Owner of business is still required to provide employee parking based on the ITE Manual.
3. Residential parking rates are not affected.
4. Automatically sunsets on December 31, 2009.

Councilmember Pina queried why an automatic sunset. Land Use Planner II Sullivan explained it does not have to be revisited in a year. If there is an unanticipated impact, the ordinance could be modified without repealing it.

Draft Ordinance No. 08-224

Land Use Planner Sullivan introduced this ordinance. He stated this ordinance has a mechanism to establish off-site parking agreements. Current code requires that entering into a joint use parking agreement requires a covenant that runs in perpetuity with the property. This has discouraged some property owners from investing in this type of joint use parking. What occurs is building use may change but the parking agreement is still in affect. If the building becomes a use that the new property owner, who has been providing the off site parking, would not want to provide off site parking for, it is still legal for the building with the new use to utilize that parking. Staff has proposed a ground lease option. A ground lease option would allow property owners to lease a specific portion of the property to provide parking for a specific time. Business owners who elect to utilize the offsite parking ground lease would have to provide a valid copy of the lease to receive the initial Certificate of Occupancy and for business license renewal each year. The ground lease option allows the owners to negotiate the parking service so that both parties benefit. It allows the offsite agreement to change as the use within the building changes over time and allows the owner to terminate the agreement if the offsite parking begins to create negative impacts on the owner or their customers. It protects the property owner from abuse.

COMMENTS FROM THE PUBLIC

Scott T. Andrews, 17915 Normandy Terrace SW, Normandy Park, WA 98166

Dr. Andrews noted that he grew up in Des Moines and has invested time and money renovating properties in the City. Currently, he is developing the old China Sea building into a high-end structure. He stated the change would be a positive addition to downtown Des Moines. One of the roadblocks to this project is the parking restrictions for Downtown. He would appreciate cooperation from the City in reviewing the parking codes as it applies to this particular development. He canvassed 42 local businesses for their input and determined none found evening parking to be a problem. He supplied the names and addresses of the businesses that agreed there was no parking issue and an architectural drawing of the elevation of the renovation.

Diane Jacobson, 22511 Marine View Drive South, Des Moines, WA 98198

Mrs. Jacobson thanked Dr. Andrews for his involvement in downtown development. She favors a thriving Downtown and encouraged Council to align with Dr. Andrews on his request concerning Downtown parking.

Mayor Pro Tem Sherman queried staff about what could affect Downtown street parking. Land Use Planner Sullivan replied the possible expansion of Butler Bar & Grill and a pre application for a small house to be converted to a small accounting office.

Mayor Pro Tem Sherman queried if the City did not require customer parking for new construction would that allow bigger structures. Land Use Planner Sullivan replied he would need to check codes and restrictions further before he could determine if that was correct.

Mayor Pro Tem Sherman queried about the analysis that stated the availability of 585 parking spaces. He wanted to determine if analysis included 6th Avenue. Land Use Planner Sullivan responded in the affirmative.

Mayor Pro Tem Sherman queried a survey of available parking spots midday. Planning Manager Lathrop stated the survey was based on aerial photography that was summer midday usage of the parking. Different times of the day and different businesses affect Downtown parking.

Mayor Pro Tem Sherman queried if the City gave an exemption for parking, would that be in perpetuity with the property. Land Use Planner Sullivan replied, if a citizen applied for a building permit and a business license to operate in the next year they would be vested to that right until they give up that use. A change of use could lead to a termination of the parking agreement.

Councilmember White queried would the City be involved in negotiations between businesses regarding parking. Land Use Planner Sullivan explained businesses would arrange contracts between themselves. The ground lease option does not change any of the current parking requirements. It is a more efficient use of land space.

Councilmember Thomasson requested staff compose a map of the number of parking spaces as opposed to the range. He also requested an explanation of what constitutes a parking place. He stated there are two proposed options.

1. Waiving parking places for customers
2. Permanency of offsite parking

Councilmember Kaplan continued with the issue of waiving parking requirements for remodels, new buildings and any construction activity in the Downtown sector for customers. He stated the problem is existing old buildings and remodels to old buildings. He queried why staff is indicating that it applies to all construction instead of just remodels. City Planner Sullivan replied it was a Council driven ordinance that staff prepared at Council's request.

Mayor Pro Tem Sherman commented the Councils decision-making should be about the issue and not based on the individual who is requesting changes to the parking requirements. He also noted that Draft Ordinances 08-223, and 08-224 do not belong together. They should be considered as separate items.

Councilmember Pina commented most residential parking is long-term while retail tends to be short-term parking and parking is essential to creating a successful downtown business core.

Councilmember White stated there was a general consensus that the City parking requirements

do not encourage new business.

Councilmember Scott queried how much remodeling triggers the new parking requirements. City Planner Sullivan stated 50 percent of the replacement value of the structure. Councilmember Scott noted that planning was more difficult due to the fact that Marine View Drive South is a State Highway. She requested information from Staff about the possibility of Marine View Drive South no longer being a State Highway.

Councilmember Kaplan stated that on the issue of a specific map, Planning Manager Lathrop had already composed a map designating a dash for each parking space in Downtown. It had been presented to Council at the retreat a few weeks ago.

Councilmember Thomasson referring to current code DMC 18.44.20 stated if this is the existing code, business owners would only need to provide parking for the additional space. He noted the City Attorney would clarify the meaning.

Mayor Sheckler inquired if there were any more questions the Council wished to address to Staff. As there were no questions, he declared the hearing CLOSED.

9:02 p.m. Mayor Sheckler called for a 10 minute break.

Mayor Sheckler noted that the City Attorney could not be reached tonight. The questions posed would be clarified by her tomorrow.

Mayor Pro Tem Sherman stated Draft Ordinance No. 08-223 and 08-224 were two different items that should have been discussed and handled separately. In an effort to do that he posed the following motion.

MOTION was made by Mayor Pro Tem Sherman, seconded by Councilmember Kaplan, to adopt Draft Ordinance 08-224 amending DMMC 18.44.080 establishing a ground lease option as an acceptable mechanism to create and maintain off site parking agreements. Striking the third “Where As” on page 2 of 6 and on page 3 of 6 at the bottom, the last line “is” needs to be added between the words parking and accessory.

Councilmember Thomasson had a procedural question in regard to suspension of Rule 26b.

Mayor Sheckler confirmed Councilmember Thomasson was correct about procedure.

MOTION 2b was made by Mayor Pro Tem Sherman, seconded by Councilmember Kaplan, to suspend City Council Rule 26b, in order to adopt Draft Ordinance 08-224 on the 1st reading.

VOTE ON MOTION 2b: Motion passed 5 to 2 with Councilmembers Thomasson and Pina opposed.

Amendment on page 4 of 6 by Councilmember Kaplan (b) paragraph first sentence “negotiated” should be negotiated. In addition, in the same sentence, “two property owners” be dropped and “between parties” should be added. The City Attorney will clarify later.

PBPW Fredricks stated it might be better to eliminate the first sentence on page 4 of 6 paragraph (b).

Councilmember Kaplan withdrew his second on Ordinance 08-224 because he stated he would rather suspend the requirements for a year and determine what the implications are for downtown parking.

VOTE ON MAIN MOTION: Fails for lack of a second.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Pina, to pass Draft Ordinance 08-223 establishing a parking exemption for commercial uses in the Downtown Commercial Zone to a second reading on November 20, 2008.

MOTION was made by Mayor Pro Tem Sherman, seconded by Councilmember Kaplan, to remove the 3rd “where as”, on page 2 of 4.

MOTION was made by Mayor Pro Tem Sherman, seconded by Councilmember Thomasson, to remove the 4th “where as”, page 2 of 4.

Councilmember Scott stated the 4th “where as” needs to stay as it provides some rational as to the reason the Council is changing this. In addition, she noted the parking provided by the condominiums on 6th Avenue ranges from underground parking, alley parking and some have individual garages, plus street parking is available most of the time. She commented that the need for residential parking on 6th Avenue is overstated.

Councilmember White favors 2 years suspension of parking requirements.

Mayor Sheckler noted he accepts information Staff has submitted on parking spaces.

Councilmember Scott noted Marina parking is available in the evening.

VOTE ON AMENDMENT TO THE MOTION: Vote failed with a vote of 2 to 4.
Councilmember Thomasson and Mayor Pro Tem Sherman in favor.

MOTION was made by Mayor Pro Tem Sherman for a different amendment to the motion on page 3 or 4, add a new “d” and the “d” on the next page becoming “e”. Wording to be used “Applies to remodels only where the square footage is not increased more than 10%, the proposed use does not create a parking space differential of more than 10%, there is no decrease of existing onsite parking.” He stated he is trying to avoid unintentional consequences. He commented he likes the town the way it is.

Councilmember Thomasson agrees with Mayor Pro Tem Sherman about not including all new buildings, he would want to limit it to existing buildings. His goal is to get Council consensus on some form of limitation.

Councilmember White stated development of Downtown is imperative.

Councilmember Scott noted the drawing of the proposed replacement structure for the building, which housed China Seas Restaurant, exhibits the charm she envisions for Downtown Des

Moines. She favors a requirement for resident and employee parking to be on site for new construction, the exception being very small lots. She stated she could not vote for this amendment without some changes.

Councilmember Kaplan favors the Ordinance but is not in support of the amended motion.

Mayor Pro Tem Sherman stated his amendment would not prevent the development of China Seas or any similar structure. The amendment does protect the City against unintended consequences.

Mayor Sheckler called for the question and Councilmember Kaplan seconded the motion.

VOTE ON THE QUESTION: Call for the Question passed 5-2 (Sherman, Thomasson).

Mayor Sheckler called for a vote on the motion for the amendment.

VOTE ON THE AMENDMENT TO THE MOTION: Vote failed (Sherman, Thomasson).

MOTION was made by Councilmember Scott, seconded by Councilmember White, that the duration in section “d” be changed from 1 year to 2 years extending this exemption through December 31, 2010.

Discussion followed and Councilmember Pina called for the question.

VOTE ON THE QUESTION: Call for the Question passed 5-2 (Sherman, Thomasson).

Mayor Sheckler called for a vote on the motion for the amendment.

VOTE ON THE AMENDMENT TO THE MOTION: Amendment for passed 4-3 (Sherman, Thomasson, Kaplan)

Discussion continued on the main motion, which included the amendments to remove paragraph 3 on page 2 of 4 and change the duration of section “d” to 2 years.

Councilmember Kaplan stated he favors a year to view what the implications will be. This provides an opportunity for those individuals who want to make an investment in the City. Diversifying the revenue stream coming into the City would reduce the burden on residents. Our community must make this a friendlier City to live and work in. The City has micromanaged for years to such a degree, that is has been impossible for businesses to want or afford to be able to do business in Des Moines. The City has provided a disincentive for people to invest here. He favors encouraging change to develop the City to its highest potential

Councilmember Pina supports the 2-year amendment.

Mayor Sheckler supports the council on this decision.

VOTE ON MAIN MOTION: Passed with a vote of 5 to 2 with Councilmember Thomasson and Mayor Pro Tem opposed.

PUBLIC HEARING

Draft Ordinance No. 08-216 [ASSIGNED NO. 1439] 8th Avenue South Access Revisions - 1st Reading

Mayor Sheckler introduced the topic and requested Staff describe the matter under consideration. PBPW Fredricks stated the Council passed Ordinance 1427. A business owner desiring to redevelop the 7-11 property would have difficulty because of restrictions on commercial access onto 8th. As a result, Council directed Staff to draft an ordinance to amend the earlier ordinance to relax restriction on 8th Ave for commercial access from 227th down to Kent-Des Moines Road.

PUBLIC COMMENTS

Joseph Ferro, 22605 8th Ave S, Apt. 3, Des Moines, WA 98198

Mr. Ferro stated concern about 8th Ave. S. safety. He does not want commercial vehicles on 8th Ave. S. He noted it is zoned non-commercial and commercial vehicles should be prohibited. He favors no parking signs on both sides of the street.

Councilmember White queried Mr. Ferro if making 8th Avenue South a one-way street has helped the situation. He replied it has helped but not eliminated all problems.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Pina, to extend the meeting to 10:45 p.m.

VOTE ON MOTION: Motion passed 6 to 1. Mayor Pro Tem Sherman opposed.

Mayor Sheckler asked three times if there was anyone else that wished to speak. No one came forward.

Mayor Sheckler queried Staff if there has been any misstatement of fact or if administration wishes to clarify anything. PBPW Fredricks stated there are currently no restrictions for commercial traffic using 8th Ave. S. The only restrictions are access to property from commercial sites. The Ordinance provides access from commercial properties only from 227th Ave. S. down to Kent-Des Moines Road.

Mayor Pro Tem Sherman queried why the owner of the commercial property needed access to 8th Ave. S. when he bordered a large section of Kent-Des Moines Road. Associate Transportation Engineer Carver stated that one of the driveways is too close to the traffic signal.

Councilmember Thomasson stated approving this Ordinance just to make the business a drive through is not a compelling enough reason to make the policy change.

Councilmember Scott stated she has had difficulty exiting that property onto Kent-Des Moines Road and noted it is logical to make this change.

Mayor Sheckler queried if there was any more discussion. There was none thus he closed the Public Hearing.

MOTION was made by Councilmember Kaplan, seconded by Mayor Sheckler, to suspend the City Council Rule 26b in order to adopt on the first reading. Draft Ordinance No. 08-216 amending Ordinance 1427.

VOTE ON MOTION: Motion passed 5 to 2. Mayor Pro Tem Sherman and Councilmember Thomasson opposed.

MOTION was made by Councilmember Kaplan, seconded by Mayor Sheckler, to adopt Draft Ordinance No. 08-216 amending Ordinance 1427 and DMMC 18.27.050 (3) Vehicular access and other right-of-way improvements to change the limits of restricted customer/employee access to 8th Avenue South to allow customer/employee vehicular access from commercial properties to 8th Avenue South from South 227th Street to Kent-Des Moines Road.,

Councilmember Kaplan stated the only change is to the properties that immediately front Kent-Des Moines Road. Commercial access will be granted to those properties only.

MOTION was made by Mayor Sheckler, seconded by Councilmember Pina, to extend the meeting by 5 minutes.

VOTE ON MOTION: Motion passed 5 to 2. Councilmember Thomasson and Mayor Pro Tem Sherman opposed.

Councilmember Thomasson stated he does not favor this because drive through traffic could have a large line and this might encourage traffic to block 8th Avenue South and possibly Kent-Des Moines Road.

MOTION was made by Mayor Pro Tem Sherman to amend page 2 of the ordinance after number 3, add number 4 on 8th Avenue South between South 227th and Kent-Des Moines Road there will be no drive-through egress only an ingress.

Councilmember Kaplan accepted it as a Friendly Amendment and Mayor Sheckler concurred.

Councilmember Scott supports allowing commercial properties to access both frontages in the fashion that best supports their business. She favors two-way access in the block between 227th and Kent-Des Moines.

Councilmember Pina will not support this with the amendment.

Councilmember Kaplan withdrew his acceptance of the amendment as a Friendly Amendment.

Mayor Sheckler then inquired if there was a second for Mayor Pro Tem Sherman's Amendment. It died for lack of a second.

Councilmember Pina called for question.

VOTE ON THE QUESTION: Failed due to lack of Super Majority (Sherman, Thomasson, Scott opposed).

MOTION was made by Mayor Sheckler, seconded by Councilmember Kaplan, to extend the meeting five minutes.

VOTE ON MOTION: Motion passed vote was 5 to 2. Councilmember Thomasson and Mayor Pro Tem Sherman opposed.

VOTE ON MAIN MOTION: Motion passed with a 5 to 2 vote. Councilmember Thomasson and Mayor Pro Tem Sherman opposed.

OLD BUSINESS

Zoning Code Update - Division 2: Zones and Use Tables. [EDITORS NOTE MOVED TO NOVEMBER 6, 2008 MEETING]

NEXT MEETING DATES

Mayor Sheckler announced that the next regular meeting will be on Thursday, October 23, 2008, followed by a Special Meeting on Saturday, October 25, 2008 at 9 a.m. at Des Moines Activity Center.

ADJOURNMENT

At 10:54 p.m., MOTION was made by Councilmember White, seconded by Councilmember Pina and passed unanimously, to adjourn.

Respectfully Submitted,

Autumn Lingle
Clerk