

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

November 6, 2008

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

PLEDGE OF ALLEGIANCE to the Flag was led by Mayor Pro Tem Sherman.

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Dan Sherman, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, Scott Thomasson and Susan White. Also present were City Manager Tony Piasecki, City Attorney Pat Bosmans, Assistant City Manager Lorri Ericson, Finance Director Paula Henderson, Harbor Master Joe Dusenbury, Environmental Engineer Loren Reinhold and City Clerk Denis Staab.

COMMENTS FROM THE PUBLIC

Farmer's Market

Mayor Sheckler commented that everyone who has signed up to speak is concerned with the Farmer's Market.

MOTION was made by Mayor Sheckler, seconded by Councilmember White that the City provide the oversight for the Farmer's Market for 2009, and that a special City Council Committee be established to study the options and bring back a long term solution for oversight of the Des Moines Farmer's Market.

Councilmember Thomasson noted Council has been asking staff since last year to come up with some alternatives to consider. He felt that as part of the budget process Council should hear the alternatives and figure out what should be done. He expressed concern once the City starts it won't stop.

Councilmember White felt the situation is similar to the Mt. Rainier Pool issues, and Council needs time to figure out a solution. She acknowledged a lot of citizen e-mails and stated these finance decisions are not easy and felt that 2010 is not going to be any better than 2009. She advised that Council needs citizen help to find another solution and with passage of the motion it will buy some time. She reminded everyone that Council is cutting staff and law enforcement even though we do not want to, but the current economy has placed the City in hard financial times. However, she supports keeping it going for another year.

Councilmember Kaplan remarked that the Farmer's Market grew and took on a life of its own. He noted Council has supported the Market by providing a location, has shopped there and would like to see it continue. He felt there was a mistaken assumption that the default was going to be the City as the oversight agency and it was not clear whose responsibility it was suppose to be. Since it was not clear, Council is saying we will look at this, in terms of finding the clearing house for the Market, and try to ensure that there is no problems with the transition for the next year, but that does not mean that is a long term solution.

Councilmember Scott expressed the opinion that the Market has had a very positive effect on the community and she will support the motion.

VOTE ON MOTION: Motion passed 6 to 1, with Councilmember Thomasson opposed.

Jeanie Markwell, 22332 10th Avenue South

Ms. Markwell thanked Council for their support of the Farmer's Market. She informed Council there is a lot of people willing to step up and would like to be a part of the solution. She further recommended that Destination Des Moines could be a great assistance in supporting the efforts to keep the Market going.

Mayor Sheckler suggested anyone who wishes to be involved and participate in the process to contact him.

DISCUSSION ITEMS

2009 Preliminary Budget

Finance Director Henderson informed Council that to date reductions total \$1,936,785. She noted the revenues are reduced because of implementation for the two new revenues and we still have issues with the utility tax and when it is going to be implemented and also the transportation benefit district. She noted there is a six month lead time for the Department of Licensing, therefore the revenues have been reduced.

In regards to the utility tax item, City Manager Piasecki noted after further research, the 60 day delay has to do with private utilities, not public utilities, so we can assess it ourselves immediately, which would restore about \$6,000.

Finance Director Henderson noted the bottom line is the short fall is \$352,835, shown on the last page of the recap furnished to Council. This figure includes the utility tax and the transportation benefit district, so if Council chooses not to implement these two items they will need to be backed out of the total. She reminded Council we really need \$1,000,000 to carry the City until the property taxes come in.

Councilmember Kaplan noted there was some discussion about funding Ralph Nichols position for next year. He noted there is a line item of \$25,000 to update the Critical Areas Ordinance which was done last year, under Tab 9, Program: Plan Development.

MOTION was made by Councilmember Kaplan, seconded by Councilmember White, to eliminate Critical Areas Ordinance Update expenditure and to fund Mr. Nichols services for 2009.

Mayor Pro Tem Sherman advised he can support the motion if Mr. Nichols can get the newspaper to identify the source of the information being from our press release source.

Mr. Nichols advised it is standard newspaper procedure to publish these articles with no signature, and that he can only promise to try, but cannot influence the newspaper's policies.

VOTE ON MOTION: Motion passed unanimously.

Councilmember Kaplan felt in these trying financial times it will be more important than ever to lobby for funds in Olympia for infrastructure, therefore he offered the following:

MOTION was made by Councilmember Kaplan, seconded by Councilmember Pina to fund a State Lobbyist in Olympia in 2009, in an amount not to exceed \$30,000, and to cut the Real Estate and Development Advisory Services line item contained in the Plan Development of \$32,000 to pay for those services.

City Manager Piasecki explained the \$32,000 was to pay Clear Path for advisory services for the work with Matt Chan and his project, and the Port buy-out area. He felt at this point staff is more than capable of finishing the Matt Chan project and in regards to the Port buy-out area, we may need a little help, but the project has slowed down, so we can figure that out later.

Councilmember White stated one of the first budget cuts was the Federal Lobbyist and she feels it is just as important as a State Lobbyist, so she would like to find funds to keep the Federal lobbyist.

Mayor Pro Tem Sherman stated he would rather take the \$32,000 to help pay the City's debt. He pointed out the 2 new tax proposals on tonight's Agenda, a Transportation Benefit District and a SWM Utility Tax, amounting to around \$500 thousand, may not pass.

Upon questioning, Councilmember Kaplan confirmed the amount for the State Lobbyist is \$30,000, leaving \$2,000 in the line item.

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

Councilmember Kaplan noted there was discussion about finding funds to support a Federal Lobbyist and questioned whether the City Manager had identified any such funds.

City Manager Piasecki reviewed a list of additional cost savings distributed to Council which amount to \$75,556. He noted \$67,000 is needed to fund the position of a Federal Lobbyist and the remaining balance of funds would be placed in Consulting Services.

Mayor Pro Tem Sherman advised that he would prefer the entire \$75,556 should be used to pay down the City's deficit.

Councilmember White spoke in support of having a Federal Lobbyist.

MOTION was made by Councilmember Kaplan, seconded by Councilmember White, to adopt the proposed cuts as identified by the City Manager to contract for a federal lobbyist on a one time basis for 2009 and to return the difference to the Consultant Services line item in Planned Development.

Councilmember Thomasson reminded Council of their discussions regarding Priorities of Government and advised he would prefer to reinstitute Police or several of the other positions that Council has cut than to fund a lobbyist. He suggested we should first determine if the Transportation Benefit District or the SWM Utility tax are going to pass before moving funds around.

VOTE ON MOTION: Motion passed 4 to 3 with Councilmembers Pina and Thomasson and Mayor Pro Tem Sherman opposed.

Draft Ordinance No. 08-228 Establishing a Transportation Benefit District - 1st Reading

City Attorney Bosmans explained that a Transportation Benefit District is a separate quasi municipal corporation that is independent of the City Council, but Council would be the members of the Board if the ordinance is approved. It allows cities to raise revenue for transportation purposes and we would be allowed to tax \$20 per car in the City, without a general vote of the people. She noted the dollar amount would be determined once the district is established and a time frame for meeting and enacting through a resolution the District's intent. She noted Council has been provided with some questions and answers from the Association of Washington Cities (AWC), including a list of which vehicles would be subject to the tax.

City Manager Piasecki pointed out that the draft ordinance does not establish the \$20 per vehicle tax, but establishes the District and once that is done, then the Council would have to meet as the Board of the District. He noted the meeting can occur concurrently with a City Council meeting, but it will mean a separate agenda and a separate budget.

Mayor Pro Tem Sherman pointed out that AWC notes a District cannot be created without imposing fees or proposing voter approved revenue options. He further noted the transportation improvements have to be in an existing State or regional plan. He advised that Puget Sound Regional Council is our regional planning organization. He questioned what is in their plan that would allow us to use the money as we wish.

Planning, Building and Public Works Director Fredricks advised that the City's Pavement Management Plan is in our Puget Sound Regional Council's approved Transportation Improvement Plan. Also in the State's Transportation Plan it talks about maintenance/preservation activities of the State, so our maintenance and operation activities will be covered under the State Plan.

Upon questioning, City Attorney Bosmans confirmed that whoever first imposes a transportation fee, the City or the County, would get the funds. So if City imposes a \$20 fee and later the County also did, then the County must provide a credit against its fee for vehicles registered in Des Moines.

MOTION was made by Councilmember Pina, seconded by Councilmember Scott, to pass Draft Ordinance No. 08-228 forming a Transportation Benefit District to a 2nd reading for enactment on the next available Consent Calendar Public Hearing on November 20, 2008. [ED NOTE: language changed later in discussion.]

Upon questioning as to whether the term "ex officio" is appropriate in referring to Councilmembers, City Attorney Bosmans reported she will check.

Councilmember Thomasson questioned Section 2, (2)(c) as to what plan changes mean and (d) what are the requirements of the annual report. City Attorney responded she will get the definitions.

Upon questioning as to what authority the Board would have, City Attorney Bosmans noted they have the authority to set policy and direction as to plans and how the money is going to be spent.

They also have the power of eminent domain, and to contract for street and highway improvements.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Thomasson, to amend Draft Ordinance 08-228, section 2(3) to read as follows: "(3) Transportation improvements funded. The funds generated by the Transportation Benefit District shall be used for transportation improvements that preserve and maintain the transportation infrastructure of the City, consistent with the requirements of chapter 36.73 RCW, and shall be used exclusively to fund the Pavement Management program."

Upon questioning, City Manager Piasecki pointed out that if the motion is approved funds could only go to the City's Pavement Management program which is what we call the "Overlay Program" in the Arterial Street Fund.

VOTE ON MOTION: Motion FAILED by 3 to 4 vote with Councilmembers Pina, Scott and White, and Mayor Sheckler opposed.

Councilmember Thomasson stated as written the ordinance is not to spend additional money on roads, but so we can take money we have been spending on roads and spend it on lobbyists, etc. He felt by approving this we will be able to reallocate money for other things, so he will not support the motion.

After further discussion, City Manager Piasecki pointed out the creation of a Transportation District requires a Public Hearing. Therefore the motion sending this to a 2nd reading is not appropriate.

The maker and the seconder of the original motion agreed to change the language to send it to a Public Hearing on November 20th. [FRIENDLY AMENDMENT]

VOTE ON MOTION: Motion passed 4 to 3 with Councilmembers Kaplan and Thomasson, Mayor Pro Tem Sherman opposed.

At 8:56 p.m., Mayor Sheckler announced that Council will take a 10 minute break and then will go into an Executive Session for approximately 15 minutes to discuss real estate matters, about which public knowledge might have an adverse impact on price to the detriment of the City, and, to discuss with legal counsel representing the City litigation or potential litigation to which the City is, or is likely to become, a party and about which public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the City.

EXECUTIVE SESSION

Mayor Sheckler called the session to order at 9:05 p.m. in the City Hall Conference Room.

Roll Call - Present: Mayor Bob Sheckler, Mayor Pro Tem Dan Sherman, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, Scott Thomasson and Susan White. Also present were City Manager Tony Piasecki, City Attorney Pat Bosmans, Assistant City Manager Lorri Ericson, Planning, Building and Public Works Director Grant Fredricks, Transportation Engineer Dan Brewer and Land Use Planner II Jason Sullivan.

At 9:18 p.m. City Manager Piasecki announced that the Executive Session will last another 10 minutes.

No formal action was taken.

At 9:36 p.m. the Executive Session was adjourned and Council reconvened into the regular meeting in the Council Chambers.

Draft Ordinance No. 08-253 Imposing a Surface Water Management Utility Tax - 1st Reading

City Attorney Bosmans advised that the draft ordinance proposes a 6% tax on the Surface Water Management Utility and is authorized by State Statute.

City Manager noted a substitute ordinance has been given to Council this evening as a 60 day waiting period is not required, and to ensure it only applies to fees collected for the operation and maintenance activities and does not include the connection or review of plans fees.

Upon questioning City Manager Piasecki noted the City can only apply a tax on a utility that is owned and operated by the City.

MOTION was made by Mayor Sheckler to pass the draft ordinance to a second reading for enactment on the next available consent calendar. MOTION DIED for lack of a second.

Capital Improvement Program 2009-2014

Assistant City Manager Ericson introduced the subject and noted staff will show how projects relate to each other and their overall project life. She noted Council has been furnished with a list of Projects completed in 2008, changes to existing projects since 2008 CIP Process, new projects proposed for 2009 CIP and unfunded CIP Projects for 2009.

9:46 p.m. Mayor Sheckler and Councilmember White left the meeting. Mayor Pro Tem Sherman took over as presiding officer.

Environmental Engineer Reinhold proceeded to review the Surface Water Management Capital Fund as follows:

New Projects Since the 2008 CIP Process:

- North Fork McSorely Creek Channel & Pipeline for 2014, estimated at \$410,500.

Projects Completed:

- Des Moines Memorial Drive Slide Repairs
- Marine View Drive Bridge Project

Changes to Existing Projects since 2008 CIP Process:

- Barnes Creek Detention Facility Alternate Proposal. Has reduced facility by 50% scope, reducing cost by \$488,200.

He continued review of projects and costs:

- Barnes Creek Detention Facility \$1,513,123
- Barnes Creek Detention Facility Alternate \$1,019,923
- Barnes Creek KDM Culvert Replacement \$855,200
- Des Moines Creek Basin Projects \$1,320,918
- Lower Des Moines Creek Channel \$646,051
- McSorley Creek Basin Plan \$156,000

- N Fork McSorely Creek Channel & Pipeline Upgrade \$410,500
- North Hill Elementary/4th Avenue Pipeline \$105,120
- North Hill/NE 197th Trunkline \$477,300
- North Hill/199th Trunkline Replacement \$202,700
- Decant Facility/Wash Station \$228,000
- DMMD Pineline Replacement 212th/213th \$100,280
- Lower Massey Creek Channel Mods \$813,000
- 24th Avenue Pipeline \$165,400

He concluded by reviewing the SWM Capital Fund, Project Revenues by year and Project Expenditures by year as contained in Council's packets.

Harbormaster Dusenbury then proceeded to review the 2009-2014 Marina projects as follows:

North Marina Combined

- Bulkhead Replacement A \$2,604,804
- SW Outfall Relocation \$203,000
- Power Line Relocation \$330,081
- Travel Lift Pier \$281,384
- Reconfigure Boat Yard \$500,000
- Bulkhead Replacement B \$3,648,192

Small Improvement

- Fire Alarm Linear HD System \$119,000
- Piling Replacement \$53,832
- Demo Restaurant Building \$32,400
- Rebuild D Dock
- Travel Lift Height Extension \$30,000
- Fire Stand Pipes \$150,300
- Security Cameras

Upon questioning, Harbormaster Dusenbury advised that the Marina is in the process of developing policies for the security cameras used at the Marina. He reported their life expectancy is around 3 to 4 years.

It was noted that the Marina's operational costs to the computer repair and replacement fund were not included and Harbormaster Dusenbury advised he will make sure they are included in the final document.

Councilmember Thomasson questioned whether the cost for the Bulkhead Replacement A included reconfiguring the docks. Harbormaster Dusenbury replied in the affirmative.

In regards to the promenade, Councilmember Thomasson felt that 10% of the cost coming from the General Fund is too low.

City Manager Piasecki acknowledged that the area will be slightly expanded because we will have more boaters coming in, but felt the boaters expect to have nice facilities.

Councilmember Kaplan voiced the opinion that 10% charged to the General Fund is too little, but he would not want it more than 25%.

City Manager Piasecki noted staff will be finalizing the MCI for presentation on Saturday showing \$34,000 at 10%, but will keep in mind Council may decide to make it higher.

10:29 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Scott, to continue the meeting for another 15 minutes. Motion passed 4 to 1 with Councilmember Thomasson opposed.

Councilmember Scott felt that if the sidewalk becomes a 12 foot wide promenade, it would seem it is more than just Marina use and 25% from General Fund may be appropriate.

Councilmember Pina stated he would rather see a narrower sidewalk that increasing General Fund costs or MCI.

City Manager Piasecki advised if Council feels additional funds cannot be taken from the MCI then the sidewalks will get narrower.

Harbormaster Dusenbury concluded his presentation as follows:

Miscellaneous

- Dredging \$746,612
- Water Main Relocation \$1,055,918
- New Tenant Public Restroom in South Lot \$476,568
- J Dock Transformer \$412,600
- Marina Maintenance Bldg. (Future 2015)
- Marina Office Remodel (Future 2015)

NEXT MEETING DATE

Mayor Pro Tem Sherman noted there will be a special meeting on Saturday, November 8th at the Activity Center beginning at 9 a.m. and the next regular meeting will be November 13, 2008.

ADJOURNMENT

At 10:38 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Pina and passed unanimously to adjourn.

Respectfully submitted,

Denis Staab
City Clerk