

DALLAS CITY COUNCIL
Monday, January 3, 2011
Council Chambers

The Dallas City Council met in regular session on Monday, January 3, 2011 at 7:00 p.m. in the Council Chambers of City Hall with Mayor Brian Dalton presiding.

ROLL CALL AND PLEDGE OF ALLEGIANCE

Council members present: Councilor Jim Fairchild, Councilor Beth Jones, Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor Mark McDonald, Councilor Wes Scroggin, Councilor David Voves, and Councilor LaVonne Wilson.

Also present were: Student Body Liaison Courtney Pope, City Manager Jerry Wyatt, City Attorney Lane Shetterly, Assistant City Manager Kim Marr, and Recording Secretary Joanne Ballweber.

Mayor Brian Dalton led the Pledge of Allegiance.

SWEARING IN OF MAYOR AND RE-ELECTED AND NEWLY ELECTED COUNCILORS

Mayor Dalton recognized the former councilors and thanked them for their past service. Mayor Dalton explained the swearing in ceremony for the new councilors. He reported that Jim Fairchild, Beth Jones, and Jackie Lawson have requested to take the customary oath of office which includes swearing to support the Constitution of the United States and the state of Oregon and in addition to support the charter and the ordinances of the City. He stated that Mark McDonald asked to take the oath swearing only to support the Constitution of the United States and the state of Oregon but exclude the provision regarding support of the charter and the ordinances of the City. Mayor Dalton advised that the City's charter only requires that the oath of office include support of the Constitution of the United States and state of Oregon and does not require the customary provisions regarding support of the City charter and ordinances. Mayor Dalton announced Mr. McDonald's oath would be modified to conform to his request.

Kim Lundy, Municipal Court Clerk, administered the oath of office to Mayor Brian Dalton, Jim Fairchild, Beth Jones and Jackie Lawson. Ms. Lundy administered the altered oath to Mark McDonald.

QUESTIONS OR COMMENTS FROM THE AUDIENCE

Mayor Dalton explained that those speaking would need to limit their comments to five minutes. He added if there were any comments on agenda items to please make them now.

Kelly Gabliks commented on the Council seat vacancy and the process used to fill the vacancy. She stated her research indicated that the City charter had not been updated since 1964 and that chapter 7 section 33 regarding vacancies and elected offices needed to be reviewed. Ms. Gabliks requested the Council develop a process that would accept applications for anyone interested in the vacant positions. She added the Council could review the qualifications and choose the person best qualified to serve.

Chelsea Pope, Executive Director of the Dallas Area Chamber of Commerce, stated the Chamber would be hosting the community awards ceremony in January. She asked the council members to nominate someone for one of the 13 awards available. She advised nominations can be received through Monday, January 10, 2010. She invited everyone to attend the awards ceremony.

Ron Lines stated his concern was regarding what was omitted from the oath of Councilor McDonald. He commented if the Councilor is not subjected to what was omitted from the oath, he would be making laws that he would not be following. City Attorney Lane Shetterly advised the Charter, section 30 Oath of Office, prescribes what the oath must contain. The reference to the Charter and the Ordinances are only customary and not required, so if a Councilor objects to that language they are not rendered ineligible.

REPORTS OR COMMENTS FROM COUNCIL

Councilor McDonald stated the reason he would not include supporting the Charter of the City of

Dallas and the ordinances thereof was because it was a constitutional point that would need to be addressed. He added that the Constitution of the United States and state of Oregon are common law documents and are superior to ordinances which are statutory law and the people who authored the Charter in 1964 felt that it was sufficient to serve the people of Dallas. He added there should be a republican form of government in the State of Oregon and in the United States. He added the statutory laws could be challenged constitutionally and he wanted to make sure he would not have a conflict if he needed to challenge any of the statutory laws of the City of Dallas.

Councilor Lawson thanked Warren and Sue Lamb for organizing Christmas Cheer again this year. She announced Christmas Cheer served 183 families. She praised the Dallas Citizens that came Christmas Eve morning to help.

ELECTION OF COUNCIL PRESIDENT

Nominations for Council President

Councilor Marshall nominated Wes Scroggin for Council President and it was seconded by Councilor Wilson. The Council voted unanimously to elect Councilor Scroggin as Council President.

COUNCIL SEAT VACANCY

Mayor Dalton explained the Council seat vacancy was created by his resignation as Councilor because he was elected as Mayor. He announced the Councilors would need to discuss what type of process they would use to fill this vacancy.

Councilor Lawson suggested an application process and present it to the Administration Committee for review. Councilor Voves agreed that an application process might be appropriate but would take too much time. There was discussion among the Councilors with regards to using the application process or filling the vacancy immediately. It was decided to fill the position now and have the Administrative Committee develop the application process.

It was moved by Councilor Voves and seconded by Councilor Fairchild to appoint Ken Woods Jr. to fill the remaining term vacated by the newly elected Mayor Brian Dalton. A roll call vote was taken and Mayor Dalton declared Ken Woods Jr. to fill the vacant Council seat with Council President Scroggin, Councilor Fairchild, Councilor Jones, Councilor Marshall, Councilor Voves, and Councilor Wilson voting YES and Councilor Lawson and Councilor McDonald voting NO.

MAYOR'S APPOINTMENT OF COUNCIL STANDING COMMITTEES

Mayor Dalton announced that Ken Woods Jr. would serve as the fifth member on the Public Works and Public Safety Committees.

PUBLIC HEARINGS

There were no public hearings.

CONSENT AGENDA

Mayor Dalton asked to remove the minutes for the consent agenda due to some minor corrections needed. He added the appointment of Municipal Judge would be removed as well because an action item has a motion associated with it.

ITEMS REMOVED FROM CONSENT AGENDA

Mayor Dalton said there are two corrections to the Council Minutes. The first is on page 1 line 16 that should read Council President Dalton asked for comments or questions from the audience "to include" the items on Agenda. He noted the other correction is on page 3 line 34 with the correction of the word facility to facilitate. It was moved by Councilor Scroggin and was duly seconded to approve the December 6, 2010 minutes as amended. The motion CARRIED UNANIMOUSLY.

Mr. Wyatt explained the review process for Judge Ira Feitelson. Mr. Wyatt reported that after

the Council review it was decided to reappoint Judge Feitelson as City Municipal Court Judge for another 2 year term. Councilor Fairchild moved to reappoint Judge Feitelson and was seconded by Councilor Wilson. When Mayor Dalton called for a vote on the motion Mark McDonald announced he would recuse himself as he would be appearing in Municipal Court later this month and would be a conflict of interest. The motion carried UNANIMOUSLY with one ABSTENTION.

REPORTS FROM CITY MANAGER AND STAFF

Appointment/Reappointment to Committees

Mr. Wyatt reviewed the staff report regarding the appointment to committees. He advised that Councilor Jim Fairchild would be Council President Wes Scroggin on the Economic Development Commission.

Mr. Wyatt explained Craig Pope has expressed interest in replacing Ron Dodge on Economic Development Commission. He further explained the County can send whoever they want and Craig Pope may not be the representative from the County. Council President Scroggin asked if the County's replacement for Ron Dodge has to be a County Commissioner. Mr. Wyatt answered it does not.

It was moved by Councilor Marshall and seconded by Councilor Voves to approve the appointments for membership on the commissions and boards. The motion carried UNANIMOUSLY.

Mr. Wyatt advised the Urban Renewal Board determines the appointments for the Urban Renewal Advisory Committee and the names were for information only. He said the Board would act on the appointments tomorrow and bring it to the next council meeting.

OTHER

Warren Lamb, representing the Rickreall Watershed Council, reported in 2009, 27 Coho fish moved over the dam and this year 43 moved over the dam. He added there should be better returns every year. Mr. Lamb advised the Watershed Council received a grant to build their new fish trap. Mr. Lamb asked the Council for monetary support again this year in the amount of \$1,000.00 and also donation of in kind labor for stream enhancement. He added that the Watershed Council could then get matching funds. Councilor Scroggin questioned who would provide the in kind labor. Mr. Lamb answered last year the Watershed received some labor from the City Employees for weed abatement and there was also City owned equipment that was used by City Employees. Mr. Wyatt stated it is also a benefit to the City to have this work done. Mayor Dalton suggested the Watershed Council apply to the Public Works Subcommittee with a letter describing what is needed.

Courtney Pope, Student Body Liaison, indicated because of holiday break there was not a lot going on. She advised when she returns to school tomorrow she would be working on the big snolleyball event scheduled for the end of January. Ms. Pope requested community help and support from City Council for this event.

RESOLUTIONS

Resolution No. 3214 – A Resolution establishing Park Hours

Mayor Dalton stated the Council had previously heard a reading of this resolution.

A roll call vote was taken and Mayor Dalton declared Resolution No. 3214 to have PASSED BY A MAJORITY VOTE with Council President Scroggin, Councilor Fairchild, Councilor Jones, Councilor Lawson, Councilor Marshall, Councilor Voves, and Councilor Wilson voting YES and Councilor McDonald Voting NO.

FIRST READING OF ORDINANCE

SECOND READING OF ORDINANCE

Ordinance No. 1732: An Ordinance adding new provisions to Dallas City Code Chapter 5, relating to truancy.

Councilor McDonald asked if there had been any legal review on this ordinance as to its constitutionality. He stated the way it is worded would be a violation of the 4th, 5th and 14th amendments of the United States Constitution. City Attorney Lane Shetterly answered saying he drafted this Ordinance. Mr. Shetterly added the City has the authority under the Oregon Constitution home rule charter to establish offenses within the jurisdiction of the City, a violation of which give the police a right to stop and inquire and he declared he has no question about the constitutionality of this ordinance as proposed.

Mr. Shetterly noted he would like to address a question and clarify an answer regarding a person under the age of 18 years of age that has already graduated. Mr. Shetterly said they are expressly exempt under subsection 2-D which is excused from compulsory school attendance. If a person has obtained a diploma or an equivalent they would not subject to this truancy ordinance.

Mayor Dalton declared Ordinance No. 1732 to have passed its second reading and will now place it for final passage. A roll call vote was taken and Mayor Dalton declared Ordinance No. 1732 to have PASSED BY A MAJORITY VOTE with Council President Scroggin, Councilor Fairchild, Councilor Jones, Councilor Lawson, Councilor Marshall, Councilor Voves and Councilor Wilson voting YES and Councilor McDonald Voting NO.

OTHER BUSINESS

Councilor Voves mentioned the charter should be reviewed. He said the Council should make an attempt to review and update the Charter and bring that before a vote to the people.

After some discussion regarding the oath and the charter, the Councilors agreed to refer this to the administrative committee.

There being no further business, the meeting adjourned at 7:50 p.m.

Read and approved this _____ day of _____ 2011.

Mayor

ATTEST:

City Manager