

**DALLAS CITY COUNCIL**  
**Monday, February 7, 2011**  
**Council Chambers**

The Dallas City Council met in regular session on Monday, February 7, 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: Council President Wes Scroggin, Councilor Jim Fairchild, Councilor Beth Jones, Councilor Jackie Lawson, Councilor Mark McDonald, Councilor David Voves, Councilor LaVonne Wilson, and Councilor Ken Woods, Jr.

Excused: Councilor Kevin Marshall

Also present were: City Manager Jerry Wyatt, City Attorney Lane Shetterly, Assistant City Manager Kim Marr, Community Development Director Jason Locke, Police Chief John Teague, Fire Chief Bill Hahn, and Recording Secretary Joanne Ballweber.

Mayor Brian Dalton led the Pledge of Allegiance.

**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.

Chelsea Pope, Executive Director of the Dallas Area Chamber of Commerce, commented on Charley Engelfried, a Dallas High School student, who passed away at a wrestling match in Silverton. She shared that Charley's family had requested black and orange ribbons be placed on car antennas during the month of February. Chelsea said the ribbons are free and available at the Chamber office. She advised OSU Federal Credit Union had set up an account for all donations to assist the family with funeral costs. Ms. Pope announced the funeral service was scheduled for Saturday at the Dallas High School stadium. She added it was expected to be an extremely large service as several schools has already indicated they would be sending their wrestling, football, and track teams as Charley was involved in all of those sports. She said there had also been some anonymous donors that had come forward and would like something built to honor Charley. Ms. Pope noted that the community was amazing about pulling together in good times and bad and it had shown during this tragic time. She advised that all information regarding Charley would be posted on the Chamber web site.

John Frei said he had a copy of the Dallas City Charter with him. He read section 30, Oath of Office, of the Dallas City Charter. Mr. Frei said the use of the word "shall" is mandatory and Council cannot by ordinance change mandatory language in the City charter by which analogy is the constitution for City government.

Fay Frei stated that during the January 3, 2011, Council meeting Mayor Dalton advised the City's charter only required that the oath of office include support of the United States and the State of Oregon. She added Mr. Shetterly stated the same identical thing. Mrs. Frei said any modification would be by charter amendment and not by ordinance. She questioned if the City Council would put the amendment before a vote to local citizens and if not, why not? Mrs. Frei commented that at the January 3, 2011 Council meeting Mr. Shetterly also said that changes to the charter would require a vote of the citizens. She asked if an oath required upholding all City ordinances that are subject to repeal does this mean a City Councilor can never repeal an ordinance they swore to uphold.

Randy Rohman commented he gave a letter to the Mayor and Councilors. He said it was time the City looked at a cost of service analysis for sewer rates. Mr. Rohman said cost of service is commonly used based upon the average winter water use to determine sewer rates. He added there would be several ways to compute winter water usage. Mr. Rohman advised the process for obtaining a cost of service rate analysis would be relatively complex and there were a number of consultants in the state that work on water and sewer rates and system development charges that would do this type of work. He added it would not be expensive and is an allowable charge from the water and sewer enterprise fund. Mr. Rohman said people who were low water users subsidize the people who were high water users. He stated to be fair to the citizens the City would need to look into a cost of service analysis especially on sewer and maybe water at the same time.

Mayor Dalton announced he appreciated the presentations and ideas.

## **PUBLIC HEARINGS**

NONE

## **CONSENT AGENDA**

Councilor McDonald requested to remove the January 18 Council minutes from the consent agenda.

It was moved by Councilor Lawson and seconded by Councilor Scroggin to approve the Consent Agenda with the modifications. The motion carried unanimously.

Items approved by the Consent Agenda were: a) acknowledge report of January 24 Administrative Committee meeting; b) acknowledge report of January 24 Building and Grounds Committee meeting; c) approve OLCC Liquor License for Sweeney's Pub and Lotto; d) acknowledge department quarterly reports; and e) acknowledge Park and Recreation Board agenda.

## **ITEMS REMOVED FROM CONSENT AGENDA**

### **APPROVE JANUARY 18, 2011 COUNCIL MINUTES**

Councilor McDonald commented he wanted more of the discussion on the 2030 project in the minutes. Councilor Lawson said Beth Jones did not attend the Ford Family Leadership Institute and requested that correction. The minutes were approved with the modifications.

## **REPORTS OR COMMENTS FROM COUNCIL**

Councilor McDonald reported he attended a round table discussion with Congressman Kurt Schrader. He said it concerned the ban on earmarks and the loss of federal funds for local projects. He added it was obvious there would be cutbacks from federal as well as the state funds.

Councilor McDonald said he attended a meeting of the local Public Safety Coordination Council. He advised there was discussion about the possibility that the sheriff's department would propose a metro police force to cover all of Polk County. Councilor McDonald announced he had looked at the City budget and certain costs of the Police Department and of all the four local police departments including the sheriff's department there was a substantial difference in the cost per officer. He proclaimed the sheriff's department has a far lower cost per man than the City's police force. Councilor McDonald speculated, if the City used the cost basis of the sheriff's department there would be a potential saving of \$800,000 per year. He further speculated the possibility of a merger with the sheriff's department and the Dallas City Police would potentially save over \$1,500,000. Councilor McDonald said he wanted the Council to direct the City Manager to investigate cost benefits of adopting the cost basis of the sheriff's department or a merger of the two departments and give a report on any potential impact on the general fund and any financial benefits of such an action.

Mayor Dalton advised the typical way that would be handled would be to first refer the matter to the Public Safety Committee. He added that committee would make a recommendation to the Council.

Councilor Lawson commented she felt it would be a waste of time investigating that issue and would not be a direction the Council should go. Councilor Fairchild said the committee would need to compare what level of service would be provided as well as response time to the cost. Councilor Wilson agreed with Councilor Lawson and stated the Police Department had performed very well and she would not like to pursue that item. Councilor Scroggin said there would be an answer for the difference in cost of service and it wouldn't take too long to come up with what it would entail. He added he would like the issue to be referred to the Public Safety Committee.

Councilor Jones and Councilor Voves agreed that it would be best to refer it to the Public Safety Committee for questions and discussion and then the committee could decide to bring it to the Council. Councilor Voves said he and Councilor Wilson had been through the process of

comparing before and it would be easy to say money would be saved but when looked into more thoroughly it could cost more.

Mayor Dalton advised the majority of the Council would like to send this issue to the Public Safety Committee. He requested that that it be put on the agenda for the next Public Safety Committee meeting.

Councilor Woods announced that he was reappointed as chairman for the fourth year to the Mid Willamette Area Commission on Transportation.

#### REPORTS FROM CITY MANAGER AND STAFF

Mr. Wyatt said the Superintendent of the Dallas School District wanted the Council to have a copy of the PowerPoint presentation that she provided. He stated she wanted anyone interested to be advised that there was a school board meeting at the Dallas High School in the Bollman auditorium at the same time tonight.

#### APPOINTMENT OF CITIZENS COMMITTEE BIOMASS MEMBERS

Councilor Wilson reviewed the minutes of the January 24 Administrative Committee. She reported that Mr. Wyatt gave the committee a list of names of people interested in the Biomass Committee. Councilor Wilson said the Administrative Committee would recommend the Council review the names and vote. Mr. Wyatt reviewed the staff report. He stated the anticipated start date would be sometime in March.

It was moved by Councilor Woods and seconded by Councilor Wilson to appoint to the Biomass Citizens Committee the list of names as presented. The motion carried unanimously.

#### PROPOSAL OF SALE OF CITY PROPERTY

Councilor Wilson reported this proposal came from the staff and she reviewed the minutes regarding the matter. She said the Administrative Committee recommended it be brought before the Council and would move for approval after discussion. Mr. Wyatt advised the property is zoned Park Open Space and originally he thought it was zoned Residential so the property would need a zone change. He added the property is adjacent to the Aquatic Center and was originally designated as a parking lot for the Aquatic Center. Mr. Wyatt advised the property would not be needed as there would be maximum capacity with the existing parking lot and the on street parking. He said the budget included \$200,000 for property sale and the sale would likely exceed that amount even though the economy is down. Mr. Wyatt explained any bid offer would be brought to the Council and the Council could reject all bids.

It was moved by Councilor Wilson and seconded by Councilor Fairchild to direct the City Manager to dispose of City property and present offers to purchase the property to Council for final decision. Councilor Fairchild asked if the City would retain a portion of road access or right of way along the street to be able to access the bridge. Mr. Wyatt answered he would look into a right of way off of Barberry Avenue. In answer to a question from Councilor McDonald, Mr. Wyatt said the property has not had a valuation on it and in the past the lots along the creek have sold for about \$150,000. The motion carried unanimously.

#### COUNCIL VACANCY PROCEDURE UPDATE

Councilor Wilson reviewed the minutes regarding the Council vacancy procedure. She said she wanted to remind the Council that this issue was referred to the Administrative Committee from the Council. Councilor Wilson advised the Council that Mr. Wyatt and Mr. Shetterly would develop an application with questions and present them to the Council in February. Mr. Wyatt said he spoke to four other cities that have had Council vacancies and gone through the process. He reported that these cities advertised for the position, had an application process, full council interviews, and they selected by majority. Mr. Wyatt stated all the cities differed in the application process and what the application would actually involve. He advised it was discussed that the City would have an application very similar to one that was used when someone would run for a Council seat. He added the questions would be like those used in interviews. Mr. Shetterly explained the majority would be based on the number of remaining

members.

It was moved by Councilor Woods and seconded by Councilor Lawson to direct the City Manager and City Attorney to develop an application and a procedure to fill a council vacancy and bring it back to the Council for approval. The motion carried unanimously.

#### OATH OF OFFICE ORDINANCE

Councilor Wilson reviewed the section of minutes in the Administrative Committee meeting that referred to the Oath of Office. She reported that Mr. Shetterly advised the committee that an ordinance would have to be adopted if the Council wanted the wording of the Oath of Office changed. She added it was moved by the Administrative Committee to bring this issue to the full Council for their action. Mr. Shetterly clarified this was not a first reading of the ordinance as one has not been prepared yet. In response to a question from Councilor Jones, Mr. Shetterly answered the Charter establishes the minimum elements of an oath in support of the constitutional law of the United States and State of Oregon but the Council by ordinance can adopt additional elements as long as they would not be inconsistent with the Charter. Mr. Shetterly explained the Council would be maintaining what the Charter requires and adding by ordinance the additional elements. In addition Mr. Shetterly explained the ordinance drafted would also recognize that to give an oath to support the Charter and City ordinances does not disqualify or prohibit any Council Member from seeking to amend an ordinance or the Charter. He further explained it would not be an oath that would bind a Councilor to the Charter and ordinances and could never be changed. Mr. Shetterly mentioned that many cities extend this oath to Planning Commissioners as well as City Officers. Councilor McDonald said the oath of office as outlined in section 30 was clearly outlined that an ordinance cannot legally amend the Charter, only an amendment to the Charter can change the oath. He stated an amendment to the Charter would require a vote by the citizens per the Oregon Constitution. He added in the Oregon Constitution article XI section 2 stated the legal voters of every city and town are hereby granted power to enact and amend their municipal charters subject to the constitution and criminal laws of the state of Oregon. Councilor McDonald shared it was his opinion that ordinances were inferior to the Charter. He hypothesized this ordinance would be voided if passed.

It was moved by Councilor Lawson and seconded by Councilor Jones to prepare an ordinance to adopt the oath of office for elected officials as was presented in the packet. Councilor McDonald said he would request a postponement until the City Attorney prepared a written legal opinion as to why he would think this was legal. Mr. Shetterly said section 30 does not give the language of the oath and this ordinance would not change that. Mr. Shetterly added he would prepare a staff report for the next Council meeting. Councilor Voves asked what would happen if an elected Council member chose not to take the oath. Mayor Dalton answered an elected official would not be able to perform the duties of a Councilor until sworn. Councilor Voves commented it had been previously discussed that the Administrative Committee would review the entire charter and he wondered if that was still being considered. Mayor Dalton answered it was. Councilor Woods called for a question. Mayor Dalton proclaimed the question had been called. The motion passed 7 to 1 with Councilor McDonald voting no.

#### AQUATIC CENTER RATE REVIEW

Mr. Locke advised rates at the Aquatic Center were set by the Dallas City Council. He said some of the larger rates would include daily admission, annual membership, and facility rental rates. Mr. Locke presented a PowerPoint that was an overview of the last 4 years of Aquatic Center rates. He reviewed the amount of subsidies for the general fund. Mr. Locke said the difference between expenditure and revenue had declined due to an efficiency project, scheduling, and tightening expenditures. He added there had been hard work to lower expenditures. Mr. Locke explained that a proposal was brought to the Building and Grounds Committee to recommend an increase for daily admission rates as well as annual membership rates. He said the revenue was down and compared the revenue in 2010 of \$231,000 to 2008 which was \$282,000. Mr. Locke stated the combination of proposed rate increases would bring additional revenue of about \$50,000 per year at current attendance rates. Mr. Locke said that rates had not increased since opening the Aquatic Center and membership has remained fairly steady. He also said as noted in the staff report there would be a risk factor with price sensitivity but he was fairly confident that those changes would not produce a further reduction in revenue. In response to a question from Councilor Scroggin, Mr. Locke answered the bulk of the revenue generated from the daily admissions would come from the family category. He added the least amount of daily admissions were seniors. Mr. Locke said he would get information that would advise which group would

be most affected by the increases. Councilor Lawson advised she would be comfortable with the increases, but would like to see senior daily rates frozen because of a lack of disposable income for them. She added she would agree with an increase in senior annual rates however because of how it would factor out. The Councilors discussed advertising for the Aquatic Center. Mr. Locke advised they do advertise but also have relied on word of mouth. He stated he has tried to be competitive with rates to draw users from other areas. Mayor Dalton asked the Council if they would want to postpone action due to all the feedback. Mr. Wyatt said he would present a resolution later.

#### SAFETY INSPECTION OF MERCER RESERVOIR

Mr. Wyatt reported the City had a positive safety inspection on Mercer Reservoir.

#### RESIGNATION OF COUNCILOR DAVID VOVES

Mr. Wyatt referred the Council to Councilor Voves's letter of resignation on page 56 of the Agenda Packet. Councilor Scroggin thanked Councilor Voves for filling the council seat he was appointed to and proclaimed the great job he performed. Mayor Dalton added Councilor Scroggin speaks for the council and the community.

#### OTHER

Mr. Wyatt asked permission from the Council to be excused from the March 21 Council meeting. He explained he had two sons that would be playing baseball in Arizona.

Mr. Wyatt said the City of Silverton had been very supportive through the process regarding the sudden death of Charley Engelfried. He advised he would be in contact, on behalf of the Council, with the City Manager in Silverton and would express the appreciation of the City of Dallas for the care and love the students, teachers, coaches, and City of Silverton had shown. Mayor Dalton advised Mr. Wyatt to draft a letter of appreciation to Silverton.

#### RESOLUTIONS

NONE

#### FIRST READING OF ORDINANCE

**Ordinance No. 1733:** An Ordinance amending provisions of the Dallas Development Code; repealing conflicting provisions.

Mayor Dalton indicated the Council had discussed this at the last Council meeting.

Mayor Dalton declared Ordinance No. 1733 to have passed its first reading.

#### SECOND READING OF ORDINANCE

#### OTHER BUSINESS

None

There being no further business, the meeting adjourned at 8:19 p.m.

Read and approved this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager