



FRIDAY COUNCIL RECAP

October 22, 2020

The following items were approved and/or discussed at last night's meeting.

ADMINISTRATION REPORT

- Item 1: INTRODUCTION OF REPRESENTATIVE TINA ORWALL**
Representative Tina Orwall attended the meeting to discuss Consent Calendar Item #4 (Interlocal Agreement – School Resilience to Air Pollution Study) and to thank Council and Staff for their continued support and leadership to move this item forward.
- Item 2: I-976 UPDATE**
Legislative Advocate Anthony Hemstad confirmed the recent Supreme Court decision where I-976 was ruled unconstitutional because it contained too many subjects and its title misled voters. At this time, Council has adopted the Capital Improvement Program (CIP) for 2021, which did not include the use of the Transportation Benefit District Funds collected after the initiative took effect (December, 2019). There were some minor pavement projects included in the 2021 CIP, but these were exclusively partnership projects with some of our Utility Districts. When the City does restart our pavement management program, we have a robust list of projects already identified. Those projects would be vetted through the Transportation Committee, and then construction contracts eventually approved by the City Council.
- Item 3: HALLOWEEN DRIVE-THRU TRICK OR TREAT EVENT**
Come by Steven J. Underwood Memorial Park for some free Halloween Goodies! Saturday, October 31, 2020, anytime between 3-5p.m. Pre-registration is required to attend. Register at www.desmoineswa.gov or call 206-870-6527. Safety Measures for this event: Attendees must stay in their vehicles at all times. Staff will wear proper PPE and follow recommendations given by the City of Des Moines Emergency Preparedness Manager.
- Item 4: SOUTH KING HOUSING AND HOMELESSNESS PARTNERS**
City Manager Michael Matthias introduced several policy positions for Council review and approval to guide our South King Housing and Homelessness Partners (SKHHP) Board members in representing our City, both now and in the future.
- SKHHP was created in 2019 for South King County jurisdictions to work together and share resources in order to effectively address affordable housing and homelessness. This collaborative model is based on similar approaches used in Snohomish County and East King County. The purpose of the coalition

is to increase the available options for South King County residents to access affordable housing and to preserve the existing affordable housing stock.

SKHHP is gaining its footing and has adopted a work plan, formalized the intent to pool funds through HB 1406, and is taking the steps to create a housing capital fund. The Council recently heard a presentation from the SKHHP Executive Director and approved the work plan and budget for 2021.

Councilmember Buxton has been appointed as the City's SKHHP Board Member, and in conjunction with City staff, we have developed general policy positions representing our City. Having these positions approved by the Council will allow her to provide immediate input on issues as they arise that relate to Des Moines. These policy positions were approved by Council 7-0:

- 1) Policy decisions that directly affect the City or that create mandates should be made by the City Council and not by the SKHHP board.
- 2) Primary focus of SKHHP should be on the production and preservation of affordable housing as stated in the Interlocal Agreement that created the partnership.
- 3) Policy decisions made by SKHHP should prioritize the preservation of affordable housing and the creation of affordable housing, while also balancing the interests of those who provide it.

CONSENT CALENDAR

The following items were approved by Council 7-0.

Item 1:

APPOVAL OF VOUCHERS

Total A/P Checks/Vouchers	#161427-161525	\$ 775,474.07
Electronic Wire Transfers	#1538-1549	\$ 262,353.82
Payroll Checks	#19391-19391	\$ 435.16
Payroll Direct Deposit	#400001-400149	\$ 362,122.62
Total Checks and Wires for A/P and Payroll:		\$1,400,122.62

Item 2:

DRAFT ORDINANCE NO. 20-042, CREATING NEW DOMESTIC VIOLENCE OFFENSES IN THE CRIMINAL CODE

The month of October has been recognized by the Des Moines City Council as "Domestic Violence Awareness Month" and the City Council through a Proclamation made on September 24, 2020 encouraged the community to ensure that victims of domestic violence know that they are not alone and to offer support to survivors.

Protecting the public from violent crime is a vital function of government. As in any other jurisdiction, crimes of domestic violence are far too common and have an enormous impact, not only on the direct victims, but also other members of the household, and the community at large. Domestic violence affects every community, targets all ethnicities and spares no economic class. The most vulnerable victims are those who cannot protect themselves, which includes children who are exposed to violence and may be physically harmed by an adult in the home.

Unlike many other violent crimes, domestic violence primarily happens behind closed doors, making it harder for law enforcement to detect and ultimately help victims involved. Children who are a vulnerable population are subject to this violence, trauma and lasting negative effects that are suffered.

Holding an abuser accountable for their actions may subsequently lead to appropriate treatment and ultimately may change the trajectory for that family unit. Most importantly, intervention early, could forever impact the lives of victims and their family members within our community.

Currently, King County is reporting that DV homicides are quadruple what they were in 2019. There have been 28 violent deaths so far this year related to Domestic Violence. In 2019 there were 7 deaths, as in 2018. The brutality of the violence has also escalated, including increased strangulation which can quickly turn lethal. Stay at home orders forced close quarters of victims and abusers as well as mounting pressure of economic strain and uncertainty. For many children who are living in a tense and violent household, going to school offered daily reprieve and predictability. With schools closed, children no longer have that protection.

In the City of Des Moines, prosecutions for Domestic Violence Assault 4 have increased 18% since April of 2020.

Numerous studies have shown that when children witness abuse they are not merely innocent bystanders. The psychological effect and the effect on a child's brain development that comes from witnessing domestic violence makes the child an additional victim of the crime. Although they may be "unintended victims", they are living within an environment which has continual volatility and unpredictability and are living in a state of constant fear and uncertainty. The psychological aftermath of repeated exposure to domestic violence is profound. The early years of child development is where the body and brain are constantly developing. Repeated exposure to domestic violence inflict trauma to a child who has no power to flee the circumstance. Repeated exposure inflicts physical harm, fear, worry, anxiety, feeling of helplessness, guilt, and intentionally inflicted pain.

Additionally, studies show that children who remain in a home that is subject to violence are more likely to exhibit these same behaviors and patterns throughout the remainder of their life.

Currently, the effect on children who witness misdemeanor domestic violence offenses is not adequately addressed by the City's Criminal Code. The proposed Draft Ordinance would make it a gross misdemeanor to commit a criminal act of domestic violence when a child in the household is able to see, hear, or otherwise perceive that the offense is occurring, which can be charged separately from the underlying offense. This will allow the City to hold the offender responsible, not only for the harm he or she is doing to the direct victim, but also for the serious collateral effect the violence is having on the mental health and brain development of the children who are not able to avoid being a witness to abuse.

A second issue that is not adequately addressed by the current code is that when the Court issues a No-Contact Order in a domestic violence case, a child who is victimized by their exposure may not be adequately protected. The ability of the Court to issue an order naming the child as a protected party can be constrained by the child not being a named victim. If the child were named as a victim of a separate crime, as the Draft Ordinance would allow, the Court could issue an order protecting the child from the person who has caused serious trauma, if appropriate in that case.

This measure would allow the City to better protect our youngest community members and citizens, who will grow up and be the future of our City. While their voices are the quietest, they must still be heard. Holding abusers accountable for harm inflicted on children will set a continued tone in our City. One that seeks to continue to prioritize public safety. Safer homes make a safer community for all.

The proposed Draft Ordinance would also create a new gross misdemeanor offense for incidents of strangulation that do not meet the standards for filing felony Assault in the Second Degree charges. Strangulation is an extremely dangerous form of assault that involves the restriction of breathing and/or blood flow to the brain by means of constriction of the neck or throat or covering up of the nose and mouth. It is an act of intimidation and control by domestic abusers and is far too often fatal. Even when strangulation does not immediately result in the death of the victim, incidents of DV strangulation are highly predictive of future lethality. One review of domestic violence homicides found that 43% of victims had been strangled by their murderer within the prior 12 months.

Due to the seriousness of this act, the State Legislature has elevated assault by strangulation to Assault in the Second Degree, a class "B" felony, punishable by up to ten years in prison. In too many cases however, the County Prosecutor's Office determines that an assault with strangulation does not meet the standards for filing felony charges.

In order to ensure that these serious assaults not be reduced to simply the lowest level of gross misdemeanor assault, the proposed Draft Ordinance would create a new gross misdemeanor charge of Strangulation that can be charged as an additional separate offense from DV Assault 4 for strangulation incidents that have been determined not to arise to Assault 2. This charge would allow the City to hold the offender accountable for the heightened seriousness and dangerousness of the act. It would further allow the Court to more effectively tailor the terms of the offender's sentence to reflect the nature of the offense, and the conviction would be a signal to police and prosecutors of the heightened danger to future victims of domestic violence posed by the individual.

Staff does not anticipate that adopting the proposed Draft Ordinance will add to existing police and prosecution costs.

Item 3: MASTER LICENSE AGREEMENT – EXTENET SYSTEMS, INC

In recent years, the proliferation of personal wireless devices and data usage has increased the need for telecommunications providers to enhance coverage. Additionally, with the onset of the COVID-19 Pandemic, many residents now find themselves working or going to school from home and the demand on providers to provide quality services into previously underserved areas is growing. The broadband industry has begun investing billions of dollars to meet the growing demand for faster speed internet, in both the wired and wireless space.

Over the course of twelve months in 2017 and 2018, the Des Moines City Council reviewed and approved Ordinance 1699, which laid the framework for a safe, planned and well-regulated roll out of modern telecommunications infrastructure to meet the demands of Des Moines residents and businesses.

Pursuant to Ordinance 1699 (Antennas and Wireless Telecommunications Facilities), prior to installation of a small cell wireless facility in City right of way, a telecommunications provider must have a City approved Franchise Agreement

as well as a pole use agreement with the pole owner. Extenet applied for a Franchise Agreement with the City and it was approved by the City Council on September 9, 2019.

In order to complete the next step before the potential installation of facilities, a telecommunications provider must have a pole use agreement with the pole owner. In the City of Des Moines, roughly 90% of the poles are owned by Puget Sound Energy (PSE) and use of those poles would require an agreement with PSE prior to installation. The other roughly 10% of the poles in the City are owned by the City, and this Agreement would only apply to the poles owned by the City.

Upon approval of this Agreement but prior to installation, Extenet must submit a Site License Addenda to be reviewed by City staff to ensure compliance with City codes and the Franchise Agreement. Per the terms of this Agreement, the City is under no obligation to accept the installation of equipment on City Poles if it is determined in the City's sole discretion that the installation will interfere in any way with the City's primary use of the Poles, or of the public right of way for transportation purposes, including transportation signalization or public safety, City utility, communication facilities or electrical facilities and their maintenance and operations or the City determines that such installation would conflict with City policy as expressed by law, ordinance or regulation.

Pursuant to a 2019 FCC order that was recently upheld by the Ninth Circuit, state and local governments are required to grant access to their infrastructure within the public Right Of Way for wireless facility attachments. This Master License Agreement sets the parameters for Extenet to install small-cell wireless facilities on City poles subject to an approved submission demonstrating compliance with City Codes and the previously approved Franchise Agreement. The key terms of this Agreement are summarized below:

1. Term: This is a five year agreement with two potential renewals of five year terms.
2. Compensation: The City is largely limited by federal regulations as to what can be charged, and the City has charged the maximum that is allowed without providing additional justifications. If the federal regulations allow the City to charge more in the future, this Agreement allows the City to make those changes.
3. Approval Process: Extenet is required to submit a Site License Addendum (Exhibit C) for approval of specific sites.
4. The Agreement requires Extenet to show compliance with City Code and Franchise including design criteria, RF emissions and weight loads.
5. General considerations include insurance requirements, performance bonds, maintenance requirements and the non-interference with City's use of pole.
6. There are a number of federal and state regulations that preempt the City's authority to regulate small cell technology and this Agreement regulates those portions where the City has authority.

As stated above, this Agreement does not approve the installation of small cell facilities, but it sets the framework. Although the City cannot prohibit telecommunications providers from locating on City poles, the City does have the ability to ensure that all provisions of the City's Codes are met prior to approval and installation.

Extenet will be responsible for one-time costs of preparation of this Agreement (\$500) as well as administrative fees for additional submittals (\$500). Additionally, Extenet will be subject to rental fees of \$270 per year per pole. At this time Extenet has identified three potential poles for installation of facilities. The maximum amounts are set by order of the FCC and charging rates or fees in excess of these amounts could result in a legal challenge and is not recommended.

Item 4: INTERLOCAL AGREEMENT – SCHOOL RESILIENCE TO AIR POLLUTION STUDY

Increasing evidence has highlighted outdoor impacts of ultrafine particles on communities living in proximity to aircraft descent paths, both within the United States and internationally. A recently completed study in Washington State identified a clear, aircraft associated footprint of ultrafine particles associated with aircraft activities. Elevated concentrations of ultrafine particles have been consistently observed in Boston, Los Angeles and other international airport locations including London, Amsterdam Airport Schiphol and Frankfurt. Evidence is emerging that exposure to aircraft emissions is associated with negative health impacts.

A recent 10-year retrospective population-based study in Los Angeles found a significant increase of pre-term births in women exposed to aircraft related pollution during gestation, and this effect was found to be independent of the effect of roadway traffic pollution. This as well as previous work demonstrating short-term increases in inflammation in adults exposed to community air pollution in aircraft impacted locations demonstrates the need to implement measures to increase resilience in communities.

Representative Tina Orwall has been a leader in this regard, working to address impacts associated with Sea-Tac Airport and the disproportionate impacts experienced by Des Moines and other cities in proximity to the airport.

Resiliency in a community is improved when vulnerable members are provided with interventions designed to mitigate or remove their sources of exposure. In partnership with MOV-UP advisory board members, researchers at the University of Washington identified school children as particularly vulnerable to indoor exposures to ultrafine particles from aircraft sources. Currently, it is not well understood how ultrafine particles from aircraft sources may infiltrate into indoor environments. Experimental and theoretical simulations of particle movement suggest a wide range of possible infiltration factors from 10-70% infiltration into indoor spaces. Important determining variables include a) building type, b) ventilation system parameters including central vs local units, filter type and manufacturer as well as c) building management strategies.

Existing literature supports that in-class performance of students is directly impacted by the air quality within the classroom environment. In Los Angeles, researchers studied how changes in ambient air pollution concentrations affected the performance of second through sixth grade students on standardized tests between 2002-2008. Comparisons were made between different cohorts within the same school, to minimize confounder. Researchers found that a lower concentrations of outdoor particulate matter significantly increased mathematics and reading test scores. Similar associations between testing scores and short-term air pollution concentrations have been observed nationally and internationally.

The impact of interventions to remove air pollutants in indoor spaces is more limited. A researcher in Texas examined the impact of rolling Indoor Air Quality (IAQ) improvements at nearly every school in a single school district. This quasi-natural experiment indicated that student performance on standardized tests significantly improved following improvements in IAQ. Rough calculations suggest that IAQ-renovations may be a more cost-effective way to improve standardized test scores than class size reductions. Similarly, preliminary results from another quasi-natural experiment in California, where HEPA air filters were installed in every classroom, office and common area for all schools within five miles of a potential gas leak (but not beyond) found that air filter exposure led to a 0.20 standard deviation increase in mathematics and English scores, with test score improvements persisting into the following year.

This project aims to test the feasibility, in two phases, to demonstrate the effectiveness and measure the impact of intervening within a school environment to reduce exposures to airborne particles of outdoor and indoor origin. Our specific aims are to:

Phase 1 (50k-65k):

Aim 1: Identify the filtration efficiency of current air handling approaches in a selection of five schools North and South of the airport

- a. Determine the size resolved ratio of indoor to outdoor particles in selected unoccupied classrooms
- b. Quantify the current ability of ventilation solutions to remove indoor generated particles (half-life). Do current air quality handling systems adequately remove particles that might contain COVID-19 particles?
- c. Describe the current air exchange rate (AER) of existing filtration systems under different MERV rating filters.
- d. Based on the experimental measures, describe the infiltration capacity of 1) ultrafine particles of aircraft origin 2) ultrafine particles of traffic origin and 3) wildfire smoke

Phase 2: (250k) funding proposed to be provided from State of Washington or other non-City source:

Aim 2: Intervene in selected schools N/S of airport by increasing within classroom particle filtration capacity.

- a. Randomize classrooms to receive an IAQ intervention, based on testing results from Aim
- b. Measure IAQ impacts of intervention under different aircraft flow conditions.

Aim 3: Observe medium-term impacts on students receiving IAQ interventions

- a. Quantify impact of IAQ intervention on school absenteeism
- b. Quantify impact of IAQ intervention on quarterly student achievement scores

This project is designed to provide guidance and recommendations to communities impacted by a variety of outdoor air pollution sources to increase resilience within a school setting by identifying impactful interventions, testing deployment, and measuring impact. We expect that the intervention proposed to reduce indoor exposures to outdoor pollutants associated with aircraft traffic will

also be effective in reducing exposures to wildfire smoke and roadway traffic. The methods developed will also explicitly test the effectiveness of the filtration strategy in reducing indoor generated particles, potentially decreasing the risk of COVID-19 transmission within classroom settings.

The cost to the City for Phase 1 of this study is \$12,500. This amount is currently available in the City budget.

Item 5:

BARNES CREEK/KENT DES MOINES ROAD CULVERT PROJECT: DESIGN AGREEMENT GCB 3395 WITH WASHINGTON STATE DEPARTMENT OF TRANSPORTATION (WSDOT)

The Barnes Creek drainage basin is fairly large at 355 acres in size and is roughly bounded from Highway 99 to 13th Avenue and S. 216th Street to Kent-Des Moines Road. Barnes Creek is a major tributary of the Massey Creek system with the stream passing below Kent-Des Moines (KDM) Road through a 90-foot long 24-inch diameter vitrified clay culvert with the confluence of Massey Creek located on the south side of KDM. Presently, the upstream end of the KDM culvert is protected with a metal cage to prevent large debris from entering/blocking the culvert entrance. Upstream of the culvert, Barnes Creek is mostly open stream providing a potential of over a mile of fish habitat. A culvert replacement project located upstream at 223rd Street was recently made anticipating the eventual culvert replacement at KDM that would allow access to fish (salmon) to the upper reaches of Barnes Creek.

In 2015, the KDM culvert was cleaned and inspected and an assessment made from both its physical condition and fish barrier potential. The video inspection indicated that the pipe is in poor condition with the structural integrity of the pipe given a “critical” classification. Many sections of the pipe are cracked and are no longer circular and several sections are displaced. As there is no structural integrity in the cracked pipe itself, the current backfill around the pipe is maintaining the current shape (oblong). Should a large segment of the broken culvert become dislodged and expose the backfill material, the backfill will likely fall into the pipe and be washed downstream or block the culvert entirely. Depending on the rate of the loss of backfill, a void above the culvert would develop leading to road failure. Potential remaining life span of the culvert is speculative, but the remaining life is likely less than 10 years.

Aside from the obvious fish barrier caused by the upstream debris guard, the fish passage assessment indicated only 33% passability, meaning the culvert is likely a barrier at least 2/3 of the time allowing passage under limited flow conditions when the flows provide sufficient in depth in the pipe but not too high as to create a velocity barrier.

Several studies have been made, including the 1990 Massey Creek Basin Plan and the 1994 Lower Massey Creek Alternative Analysis, that have indicated that the existing 24-inch culvert is insufficient in size and needs to be upsized to a minimum 48-inch diameter pipe. During large storm events, the existing pipe’s capacity is exceeded creating backwater conditions upstream of the pipe and even overtopping of Kent-Des Moines Road. However, given the need to meet current fish passage requirements the replacement of the pipe will need to be substantially larger than 48-inches and likely a large box culvert. The construction of the replacement will also have to accommodate the heavy traffic of KDM Road, the relatively deep burial depth (20-25 feet) of the culvert, as well as support or relocate numerous utilities that cross over the culvert. An open-cut construction technique will most likely be the method used.

Preliminary design work had started in 2016 but the project was placed on hold when staff learned that the culvert is included in a list of priority state culvert replacements that is required under a federal court mandate to repair hundreds of fish-blocking culverts under state roads in order to maintain the 1850's treaty fishing rights of the tribes. The project was placed on hold until a discussion was made with WSDOT regarding the timing of the culvert's replacement, the concern of the condition of the culvert, and whether the state would be interested in a partnership with the City for replacing the project within the next five years.

WSDOT is continuing to make progress toward replacing the culverts under the mandate. Unfortunately, the Barnes Creek Culvert is only one of some 800+ culverts that are under state roads that need to be replaced. As such, it could be ten or more years before the state is able to do this project, given that several hundred culverts have been prioritized higher.

However, after reviewing the 2015 culvert condition assessment and meeting with City staff, WSDOT has agreed to partner with the City in order to substantially speed up the timeline for the project. The attached Local Agency Agreement is for the design and permitting phase of the project to be completed by the end of this year with construction of the project anticipated in the summer of 2021. It is proposed that the City and WSDOT will share 50/50 on the total cost of the project. Once the design and permitting phase is complete, the Agreement will be amended for the construction phase.

The Local Agency Agreement includes the following tasks:

- Project survey
- Preliminary Hydraulic Design
- Preliminary Right-of-Way Plans
- Utility coordination
- Preliminary Public Outreach
- Environmental Permitting
- Plans, Specifications and Estimate package

Agreement GCB 3395

A new agreement is needed to cover additional design and land acquisition costs on the project. The existing culvert is undersized allowing for flow detainment behind the 25-foot road embankment. Replacement of the existing culvert will increase flows by 30%. Additional survey and analysis was required to ensure that water levels during storm events did not pose a threat to public safety. A stormwater analysis and report was prepared for the project to address the downstream concerns as well as fish passage issues brought up by the Tribes.

Initial scoping assumed that the existing culvert would be replaced with a 16-foot wide 3-sided culvert with the lower portion of the culvert buried. During permit review, the Muckleshoots were concerned that the 3-sided culvert would not operate the same as a preferred bridge structure. Additional efforts were needed to justify the culvert functions over the more expensive bridge option. The bridge option would add \$1.3M to the project cost and 120 days of full road closure vs the planned 9 days. To satisfy the Muckleshoots, the footings of the culvert will be embedded deeper to ensure changes to the streambed grade would allow for fish passage.

Another major design change is the inclusion of a 12-foot wide maintenance access to both ends of the culvert. The effort also included additional permit work to mitigate for more shoulder widening as well as property acquisition needed for the maintenance access areas.

Other additional design work includes water quality enhancements requested by the Tribes such as inclusion of large woody debris for fish habitat creation as well as tree mitigation (nearly 250 2-gallon trees need for mitigation) which exceeds the current capacity of the site. The additional property acquisition will be used as the tree mitigation area.

The Agreement allows for a 20% increase in costs (contingency) above the cost estimate of \$1,150,000 for the project's design and permitting. The City's 50% share of the project design and permitting costs have increased from \$250,000 to \$575,848 to cover the added design expenses explained above. The 2020 budget assumes that the project would be constructed this year and therefore adequate funds have been appropriated in this year's Capital outlay. Once the design and permitting work is complete, this agreement will be brought back to Council for amendment for the construction phase of the project, now scheduled for spring/summer 2021.

PUBLIC HEARING

It was approved 7-0 by Council to move the second reading of the 2021 Preliminary Annual Budget to November 12, 2020:

Item 1: 2021 PRELIMINARY ANNUAL BUDGET, FIRST READING

According to state law the 2021 Preliminary Annual Budget was presented to City Council and made available to the public on October 8, 2020.

Budget adoption requires two public hearings. The first public hearing was scheduled for October 22, 2020 and the final public hearing is scheduled for November 12, 2020. Notice of these public hearings were provided to the public on October 2, 2020 and October 9, 2020

City Manager Michael Matthias and Finance Director Beth Anne Wroe introduced the 2021 Preliminary Annual Budget document, which is available on the City's website: <http://www.desmoineswa.gov/DocumentCenter/View/5162/2021-Preliminary-Annual-Budget-003>

Next City Council Meeting: November 12, 2020