

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

March 11, 1999

The regular meeting of the Des Moines City Council was called to order by Mayor Thomasson at 7:32 p.m. in the Council Chambers, 21630 11th Avenue South.

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

ROLL CALL - Present: Mayor Scott Thomasson, Mayor Pro Tem Terry Brazil, Councilmembers Dave Kaplan, Bob Sheckler, Gary Towe and Don Wasson. Absent: Councilmember Dan Sherman (vacation). Also present were City Manager Bob Olander, City Attorney Gary McLean, Assistant City Manager Tony Piasecki, Community Development Director Judith Kilgore, Planning Manager Corbitt Loch, Public Works Director Tim Heydon, Assistant City Attorney Colleen Hartl and City Clerk Denis Staab.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Wasson and passed unanimously, to excuse Councilmember Sherman.

COMMENTS FROM THE PUBLIC

Mayor Thomasson reminded the audience that the verbal public testimony regarding the proposed zoning map changes has been closed. He noted that written comments will be accepted until 4:30 p.m. Friday, March 19th.

Carl Rapp, Whaler's Village

Mr. Rapp alluded to the definition of fraud and cautioned Council about taking of property without paying, warning that they could be at personal financial risk.

Earline Byers, 22315 6th Avenue South

Ms. Byers informed Council that citizens feel threatened, scared and hurt and do not understand the proposed zoning changes. She reminded Council of their role of protecting citizens.

Neil Johnson, representing Sea-Tac Disposal

Mr. Johnson read a letter into the record requesting reconsideration to Sea-Tac Disposal's earlier request for a rate increase that Council had denied. He stated the company hopes to be allowed to adjust its rates without the necessity of a costly, time-consuming, and redundant audit.

BOARD & COMMITTEE REPORTS

National League of Cities Conference - Washington, D.C.

Mayor Pro Tem Brazil reported attending the conference held last week. He noted the key action agenda items that can have an effect on the City of Des Moines included the following:

- Internet Sales - \$47 billion dollars in sales with no sales tax being collected. May have a big impact on shrinking sales tax which effects the sales tax equalization.
- Off-Reservation Land Purchasing by Native Americans - A report on the "casino" related issues will be placed in Council's mail boxes.

ADMINISTRATION REPORTS

Highline School District Noise Study - Video Presentation

Highline School District representatives Superintendent Joe McGeehan and Cathy Allen, reminded Council of the program started about a year ago "A Sound Environment for Education", designed to study the effects of aircraft noise on the schools in the Highline School District. They advised that the report will focus on construction design modifications needed to sound proof the 15 schools located within the District and will be complete by the end of June 1999. It was noted that the cost of the modifications is unknown at this time, and it is yet to be determined what part of the cost will be paid by the Port of Seattle and government and what if any, by citizens.

At the conclusion of the video presentation, Mr. McGeehan thanked the City for its excellent leadership, assistance and support in the struggle with the airport issues, including the fight against the 3rd runway.

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the minutes of February 22 and 25, 1999.
2. Findings: Vouchers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.080, have been recorded on a listing which has been made available to the City Council.

Motion: As of this date the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the above list and further described as follows:

Claim check #65775 through #65976 in the total amount of \$521,747.34
Payroll fund transfers in the total amount of \$211,900.06

MOTION was made by Councilmember Kaplan, seconded by Mayor Pro Tem Brazil and passed unanimously, to approve the Consent Calendar as read.

AGENDA REVISION

Mayor Thomasson announced that he will take New Business first this evening.

NEW BUSINESS

Draft Ordinance No. 99-057 **[ASSIGNED ORDINANCE NO. 1231]** Amending Street Development Standards to Allow in Lieu Payments for Construction Improvements - 1st Reading

Public Works Director Heydon informed Council that the draft ordinance would establish an alternative for complying with street system improvements by allowing fees to be paid in lieu of actual construction. This would apply in circumstances when such improvements would be destroyed or significantly altered within the reasonable and foreseeable future as determined by the Public Works Director. He advised that this has become a real issue for proposed projects on Pacific Highway South.

Assistant City Attorney Hartl noted that the draft ordinance will apply only to sites where publicly-planned projects are listed on the City's Current Capital Improvement Program.

Upon questioning by Council, Public Works Director Heydon stated that the fee to be charged would be computed by determining the estimated costs of the improvements plus an additional 25% to cover costs incurred by the City for engineering and administration.

Public Works Director Heydon addressed further questions from Council as follows:

- Fee will be deposited into a related capital improvement fund and will earn interest comparable to inflation rates.
- If proposed development does not occur, the collected fee will be used to complete the design and construct the improvements.
- Appeal provisions are already contained in Title 12, DMMC.
- Storm drainage improvements may need to be installed immediately, each project will be reviewed on a case by case basis.
- Engineering has good up to date figures based on recent past projects to ensure proper fees are being charged.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Sheckler, to suspend Council Rule 26(b) in order to enact the draft ordinance on first reading. Motion passed unanimously.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Sheckler to approve Draft Ordinance No. 99-057.

MOTION was made by Councilmember Towe, seconded by Mayor Pro Tem Brazil, to amend the draft ordinance, Section 2(2), 3rd sentence by striking the language: “. . . twenty-five percent (25%) to cover design and construction costs” and inserting the language: “. . . administrative and engineering costs.” Motion passed unanimously.

Mayor Thomasson read the draft ordinance by title into the record.

VOTE ON MAIN MOTION: Motion passed unanimously.

8:45 p.m. Mayor Thomasson declared a 10 minute break.

PUBLIC HEARING CONTINUED

Zoning Map Amendments - Discussion and Direction

Community Development Director Kilgore outlined the following as items for Council's review and discussion this evening:

- Non Conforming Uses
- Site Evaluation Process
 - Pacific Ridge /Committee Selected Sites
 - Low Complexity
 - High Complexity
- Pacific Ridge Committee Selected Sites
- Low Complexity Sites

NONCONFORMING USES

Attorney McLean called Council's attention to possible text code amendments as distributed to Council, to address public concerns regarding nonconforming residential buildings. He noted the draft reflects thoughts and ideas proposed by various Councilmembers and staff in response to public testimony received before the close of the public hearing on the proposed zoning map updates. He advised that this proposed language is for discussion purposes and is not actually a part of the zoning map changes. This document would require a separate ordinance and a textual code change public hearing would need to be scheduled.

Regarding insurance issues, City Attorney McLean pointed out that insurance coverage is a private policy matter. He noted the Condo Code requires a certain amount of coverage. He strongly urged citizens to review their insurance coverage to see if they have what is termed "code law and ordinance" coverage.

City Manager Olander noted proper insurance coverage is important since even in the event no zoning changes occur, existing multi family/condo structures would have problems in that they would have to rebuild to meet all current building codes.

City Attorney McLean further noted that Federal and State codes would have even greater impacts and many structures could not be rebuilt in current configurations today because of environmental laws.

City Manager Olander questioned Council on direction to staff to prepare the appropriate ordinance to address non-conforming uses based on the suggested language presented by the City Attorney.

Council proceeded to review the proposed language with comments and questions as follows:

- (2) *Until 1/1/20 . . .*

Councilmember Kaplan felt this should not apply to single family homes.

COUNCIL CONSENSUS was to keep single family homes as a separate issue.

- (2) *(h) Reconstruction of a nonconforming residential building must comply with applicable federal, state and city environmental regulations, including but not limited to those designed to protect hillsides, shorelines, flood-plains, streams and wildlife.*

Councilmember Towe requested staff determine how many sites would be impacted.

- (2) *(i) To the fullest extent possible, reconstruction of any nonconforming building must conform with then-existing regulations pertaining to landscaping, parking, recreation areas and setbacks.*

Councilmember Wasson felt the term "fullest extent possible" needs to be better defined.

- (2) *(f) Owner(s) seeking to reconstruct a building must file and receive notice of filing a complete application within twelve (12) months following the date of the catastrophic event.*

Councilmember Wasson felt 12 months is too restrictive and he would prefer 24 months.

Councilmember Towe requested staff determine the ratio of condo units that are owner lived in versus rented out.

After further discussion COUNCIL'S CONSENSUS was for staff to prepare a draft ordinance for Council's review at the April 1st study session. It was noted by City Attorney McLean that someone from the State Insurance Commissioner's Office will be at the meeting to answer more detailed questions regarding insurance issues.

SITE EVALUATION PROCESS

Planning Manager Loch proceeded to review a proposal for grouping of sites as follows:

- Sites Within Pacific Ridge Planning Area
 - Staff recommends these be set aside while the Comprehensive Plan Element is being developed for this area.
- Sites That Require Comp Plan Amendments
 - These areas will be addressed in the fall of 1999 during Comp Plan Amendment process
- Sites with Less Complexity such as: technical correction, consistent with Comp Plan or no concerns or opposition received.
 - Staff recommends these be undertaken first.
- Sites with More Complexity
 - Staff recommends that these be reviewed last.

After some discussion, Councilmember Kaplan requested staff work on making the zoning terms clearer.

Mayor Thomasson again noted that written comments will be accepted through Friday, March 19th, 4:30 p.m. and discussion will continue at the April 1st study session.

EXECUTIVE SESSION

It was announced that an Executive Session will be held Monday, March 15, 1999, at 7:00 p.m. to discussion litigation issues for approximately one hour.

NEXT MEETING DATE

Mayor Thomasson noted the next meeting will be March 25, 1999.

ADJOURNMENT

The meeting was adjourned at 10:29 p.m.

Respectfully submitted,

Denis Staab
City Clerk