

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

July 1, 1999

The regular meeting of the Des Moines City Council was called to order at 7:30 p.m. by Mayor Thomasson in the City 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, Dan Sherman, Gary Towe and Don Wasson. Also present were City Manager Bob Olander, Assistant City Manager Tony Piasecki, City Attorney Gary McLean, Community Development Director Judith Kilgore, Public Works Director Tim Heydon, and City Clerk Denis Staab.

COMMENTS FROM THE PUBLIC

John & Kristine Reimer

Mrs. Reimer addressed Council regarding a short plat of their parents property located on the northeast corner of S. 264th and Marine View Drive. She advised that the property is approximately one acre that they wished to divide into two lots. She informed Council that due to required code improvements of curbs, gutters, sidewalks and street improvements that would cost them thousands of dollars to do, there would not be enough property left to build their new home. She distributed a drawing of the proposed short plat and in conclusion requested Council exempt smaller projects such as these from rigid code requirements that are almost impossible to meet.

City Manager Olander informed Council that he has spoken with staff regarding other properties that are having the same difficulties. He noted that the City's code does not provide for any exceptions or exemptions. He stated that he can bring some procedures to Council for review in the next couple of months that they may wish to consider to allow more flexibility in the Street Development Standards for these smaller types of projects.

Earline Byers, 22315 6th Avenue South

Ms. Byers noted that Council packets are available for citizens to pick up on Mondays prior to the Council's Thursday night meetings. She asserted that this does not allow enough time for citizens to thoroughly review and research material, and prepare a response. She requested consideration be given to allow a minimum of seven days for citizen review before an item comes before Council

Wayne Bader, 21938 Marine View Drive

Mr. Bader criticized the Council for spending tax payer money for redoing the Marine View Bridge. He further stated that the City should have allowed the proposed dirt conveyor belt to proceed as the City would have realized a large amount of money. He concluded by stating that he felt the Des Moines Municipal Code is unfair and asserted that Des Moines' government is not a democracy.

Vonda Perry-Jackson, 22979 Marine View Drive

Ms. Perry-Jackson thanked Council for their wisdom in not allowing the proposed dirt conveyor belt to be constructed in Des Moines.

BOARD & COMMITTEE REPORTS

Association of Washington Cities

Mayor Pro Tem Brazil reported attending the recent meeting held in Wenatchee. He stated that one of the main topics was the Endangered Species Act and the negative economic impacts it will have on cities. He noted he will distribute material on this topic to Councilmembers for review. He further reported that he provided testimony to the State Senate Committee on Local Government hearing on utility district assumptions and siting of essential public facilities.

SW King County Elected Officials Meeting

Councilmember Sherman informed Council that he attended a meeting held at Highline Community College regarding Visions 2000. He noted this was a great opportunity to share concerns that are unique to the southwest King County area with neighboring elected officials. He advised that he participated in a group discussion of transportation issues. He concluded by stating he hopes to see more meetings of this scale.

PRESIDING OFFICER'S REPORT

Local Mayors Meeting

Mayor Thomasson reported attending a meeting of Mayors and City Managers from neighboring cities regarding the Endangered Species Act and the impacts it will have on city operations such as street cleaning, etc.

ADMINISTRATION REPORTS

Economic Development Council of Seattle & King County

City Manager Olander introduced Art Scheunemann, President of the Economic Development Council of Seattle and King County.

Mr. Scheunemann distributed a packet of informational materials to Council regarding the EDC. He noted since the City of Des Moines withdrew its membership from the EDC they have reorganized and placed more focus on a "hands on" philosophy to help businesses and target growth areas of King County, and no longer takes a stand on political policy issues. He urged Council to consider rejoining the EDC, stating it has a great deal to offer as a coalition of business and government working together to identify specific needs and goals

Upon questioning by Councilmembers, Mr. Scheunemann noted that EDC, when requested to by member cities, identifies an action plan to promote an economic forward movement for businesses and cities. He advised that an executive committee of seven makes recommendations to the Board of Directors which is comprised of 51 members.

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the minutes of June 3 and 10, 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 #67152 through #67396 in the total amount of \$195,552.30

Payroll fund transfers in the total amount of \$315,356.64

3. Motion is to authorize the City Manager to approve all vouchers for payment of the following claims during the period of July 1, through August 5, 1999:
 - a. All vouchers for payment of payroll checks, including Marina payroll, and
 - b. All vouchers for payment of claims and Marina checks, provided that all vouchers and checks approved by the City Manager in accordance with this motion shall be presented at the August 5, 1999 meeting.
4. Motion is to award the contract for the Playfield Renovation Project 99-95 Midway and Olympic Elementary Schools to BBWT Construction in the amount up to \$96,130.00 and \$8,267.18 sales tax, plus 10% contingency and authorize the City Manager to sign said contract substantially in the form as attached.
5. Motion is to adopt the 2000-2002 CDBG and HOME Interlocal Agreements and authorize the City Manager to sign these agreements substantially in the form as attached.
- ~~6. Motion is to accept the proposal from Makers Architecture and Urban Design for providing design and construction management services for the South Marina Restroom Project for the amount of \$30,419.00, plus a 10% contingency, and authorize the City Manager to sign said agreement substantially in the form as attached.~~ [ED NOTE: This item was removed at the request of Councilmember Wasson.]

MOTION was made by Councilmember Sheckler, seconded by Mayor Pro Tem Brazil, to approve the Consent Calendar as read.

Councilmember Wasson requested that Consent Item #6 be removed from the Consent Calendar.

VOTE ON MOTION: Motion passed unanimously.

Consent Item Number 6 - South Marina Restroom Project - Award of Design & Construction Management Services

Councilmember Wasson stated that he cannot support this whole project as it extremely expensive.

Harbormaster Dusenbury advised that restrooms are probably the most expensive type of project to do because of the fixtures and plumbing. He noted the current restrooms have lasted about 30 years, which is what he expects from this new project.

City Manager Olander further noted that this project has been previously approved by Council in the Marina's Capital Improvement Plan and is one of the top priorities of the Marina tenants.

MOTION was made by Mayor Pro Tem Brazil, seconded by Councilmember Kaplan to accept the proposal from Makers Architecture and Urban Design for providing design and construction management services for the South Marina Restroom Project for the amount of \$30,419.00, plus a 10% contingency, and authorize the City Manager to sign said agreement substantially in the form as attached. Motion passed 6 to 1 with Councilmember Wasson NO.

PUBLIC HEARING

Draft Ordinance No. 99-070 Textual Code Changes - Reconstruction of Non-Conforming Multifamily - 1st Reading

Mayor Thomasson introduced the topic.

City Attorney McLean reminded Council that this agenda item provides a public hearing for a textual code amendment requested by the City Council, and promoted by the Greater Des Moines Comprehensive Plan. The draft ordinance would allow, in certain circumstances, the replacement and reconstruction of nonconforming multifamily structures. Reconstruction would only be allowed when a catastrophe or disaster beyond the control of the property owner destroys the subject building. He noted that there will be various policy issues that Council will need to address at the conclusion of the public testimony.

PUBLIC COMMENTS

Earline Byers, 22315 6th Avenue South - South Shores Condominium Association

Ms. Byers addressed the following points of the proposed ordinance with comments as noted:

- Section 1(3)(f): She felt that 12 months may not be enough time.
- Section 1(3)(i): Should be deleted as this takes away the whole purpose of the ordinance.
- Section 1(3)(j): Should be deleted as the “burden of establishing” should not be something the owner should have to worry about.

Paul Ritchie, 21937 7th Avenue South - Spy Glass Condominiums

Mr. Ritchie offered the following comments:

- Section 1(3)(g): Would strike the words “at the time of the catastrophe or the number allowed under zoning and development codes at the time of the catastrophe” and insert “July 1, 1999”.
- Section 1(2)(a): He questioned how this would cover arson, if the term “voluntarily initiated by the property owner” remains.

James Heberling, 22315 6th Avenue South

Mr. Heberling stated that property owners need to retain complete rights to reconstruct to all of the original construction. He felt there should be absolutely no reduction in what can be rebuilt.

Vonda Perry-Jackson, 22979 Marine View Drive - Whalers Village

Ms. Jackson thanked Council for bringing this legislation forward. She requested that apartments be separate from condominiums.

Thelma Vannoy, 22532 6th Avenue South, Casa Del Mar

Ms. Vannoy stated that this is a very important issue to condo owners and that they deserve assurance from Council that they will be allowed to rebuild. She showed a resale certificate that must be noted whether a condo is non-conforming or not.

Tom Sitterley, 601 South 227th Street, President of Mariner Manor Association

Mr. Sitterley felt it is unfair that this draft ordinance is more restrictive than the one that was created for single family. He brought out the following items:

- Section 1(1): He questioned why the Community Development Director should have this responsibility.
- Section 1(3)(e): He felt this should be struck.
- Section 1(3)(f): 12 months is not enough time. He suggested that 18 to 24 months would be more appropriate.

- Section 1(3)(i): This section should be deleted as it is just the opposite of what grandfathering is suppose to allow.
 - Section 1(3)(j): Felt it should be the City's responsibility, not owners. He noted that single family home owners do not have this extra burden and neither should condo owners.
 - Section 1(3)(k): Felt this item is redundant and should be struck.
- In conclusion, Mr. Sitterley thanked Council for the proposed ordinance.

Wayne Bader, 21938 Marine View Drive

Mr. Bader noted the following:

- Section 1(1): Felt this should not be only one person and certainly not the Community Development Director.
- Section 1(3)(f): Felt this should be a minimum of two years, not 12 months.
- Section 2: Felt that fees should actually be reduced.

Written Comments: The following written comments were submitted by various speakers and entered as exhibits as follows:

Exhibit 1: Letter from South Shores dated July 1, 1999.

Exhibit 2: Letter from Casa Del Mar Condominiums dated July 1, 1999.

Exhibit 3: Letter from Michael Robertson dated July 1, 1999.

Exhibit 4: Letter from John Sanders dated June 30, 1999.

Exhibit 5: Memorandum from Donna Lee Mitchell dated July 1, 1999.

As there were no more speakers, Mayor Thomasson closed the public testimony portion of the public hearing.

9:12 p.m. Mayor Thomasson declared a 10 minute recess.

Mayor Thomasson questioned staff if they wished to make any clarifying statements or had further comments.

City Attorney McLean advised Council that in Section 1(1), the Community Development Director is the appropriate individual to make these types of determinations as that individual is the head of the building department. He reminded Council that this is appealable to the Hearing Examiner.

Councilmember Wasson expressed some concern with an appeal to the Hearing Examiner because in most cases administrative decisions are given substantial weight.

In response to the issue of arson, City Attorney McLean advised that he will develop some new language to cover this.

After some discussion on whether the ordinance addresses both apartments and condo, City Manager Olander stated that the draft ordinance is meant for condominiums. He noted there are clearly different ownership issues between the two.

Further discussion ensued with the following issues highlighted.

Section 1(3)(f):

- City Attorney McLean he will clarify the language to note difference of an application versus the actual building permit.
- Councilmember Towe felt staff will need to develop some mechanism for notifying owners that the "clock is ticking".
- Mayor Thomasson felt there should be a sunset clause for how long after an application is submitted for rebuilding and when the actual application for a building permit is filed.

Section 1(3)(h):

- City Attorney McLean advised that the Hearing examiner can establish specific conditions.

Section 1(3)(i):

- Mayor Thomasson felt the language "To the fullest extent possible" is too strong.

Section 1(3)(j):

- City Attorney McLean advised that he will find clarifying language regarding the "burden of establishing".

Section 1(3)(k):

- City Attorney McLean informed Council that this is a policy issue that Council will need to determine who is responsible, and what the process will be.

Councilmember Sherman questioned why the City policy was that if a building was destroyed it had to be rebuilt to existing standards. Community Development Director Kilgore responded that codes evolve with improvements and standards that meet community needs and safety issues.

City Attorney McLean reminded Council that there are several policy issues that need to be determined by Council such as whether appeals should be heard by the Hearing Examiner or the City Council. He encouraged Council to contact him with further comments or ideas before the next reading of the draft ordinance.

Councilmember Kaplan noted that he did not want this process dragged out as he felt it is an important issue of concern to many citizens of Des Moines.

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

MOTION was made by Councilmember Sheckler, seconded by Mayor Pro Tem Brazil, to move draft Ordinance No. 99-070 to a second reading at a future meeting. Motion passed 6 to 1, with Councilmember Sherman voting NO.

AGENDA REVISION

Due to the lateness of the meeting (10:21 p.m.) Mayor Thomasson noted that items will be taken in a different order.

NEW BUSINESS

Approval of Public Works Trust Fund Loan – Marine View Drive Bridge Project

MOTION was made by Councilmember Kaplan, seconded by Mayor Pro Tem Brazil to authorize the City Manager to sign the Public Works Trust Fund Loan for the Marine View Drive Bridge Project.

Councilmember Wasson noted that back in 1998, Public Works Director Heydon stated that he would not use the loan if interlocal agreements were not in place. He noted that we have no signed interlocal agreements from the other agencies and questioned why we should place ourselves in a situation where we would be totally liable for the whole amount of the loan.

Public Works Director Heydon advised that he would not spend any of the loan until all interlocals are signed. He stressed that all parties are highly interested and are encouraging him to move forward. He informed Council that time is running out to apply for the funding. He assured Council that Des Moines' would be able to return all of the loan if for some unforeseen reason the interlocals failed to materialize. He noted that the money would be earning interest.

10:30 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Mayor Thomasson and passed, to continue the meeting for another 5 minutes.

VOTE ON MOTION: Motion passed 6 to 1, with Councilmember Sheckler voting NO.

PUBLIC HEARING

Draft Ordinance No. 99-129 Notice Requirements – Zoning Code Amendments re: Lot Area Per Dwelling Unit – 2nd Reading

Mayor Thomasson announced that this Public Hearing will be continued to the August 5, 1999 Council meeting.

NEW BUSINESS

Draft Resolution No. 99-154 **/ASSIGNED RESOLUTION NO. 872/** Approving the Southwest Suburban Sewer District's 1999 Sewer Comprehensive Plan

MOTION was made by Mayor Thomasson, seconded by Councilmember Kaplan and passed unanimously to approve Draft Resolution No. 99-154.

OLD BUSINESS

Pacific Ridge

Community Development Director Kilgore announced that an RFQ for this project will be advertised by July 8, 1999, and she requested any Council suggestions on the draft RFQ be provided to her by July 8th.

NEXT MEETING DATE

Mayor Thomasson noted the next regular meeting will be on August 5, 1999.

ADJOURNMENT

The meeting adjourned at 10:35 p.m.

Respectfully submitted,

Denis Staab
City Clerk