REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES July 12, 2001

The regular meeting of the Des Moines City Council was called to order at 7:34 p.m. by Mayor Thomasson in the Council Chambers, 21630 11th Avenue South, Suite B.

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

ROLL CALL – Present: Mayor Scott Thomasson, Councilmembers Terry Brazil, Dave Kaplan, Dan Sherman, Gary Towe, and Don Wasson. Absent: Mayor Pro Tem Bob Sheckler (illness). Also present were City Manager Bob Olander, Assistant City Manager Tony Piasecki, City Attorney Gary McLean, Public Works Director Tim Heydon, Community Development Director Judith Kilgore, Assistant City Engineer Maiya Andrews, and Deputy City Clerk Angela Chaufty.

MOTION was made by Councilmember Sherman, seconded by Councilmember Brazil, and passed unanimously to excuse Mayor Pro Tem Sheckler from attendance.

COMMENTS FROM THE PUBLIC

Sue Padden, 22030 Cliff Avenue South

Ms. Padden introduced Senior Center volunteers Mickie Stites and Barbara Gladding. On behalf of the Senior Center, they thanked Council for the funds to purchase new Senior Center chairs. They then presented Council with a banner of appreciation.

Jerry Bergman, 23659 7th Avenue South

Mr. Bergman said that partial sidewalks would be constructed in the Zenith neighborhood if current code was applied to his lot development project and a proposed commercial/ condominium project. Mr. Bergman felt that most of his neighbors were opposed to the condominium and commercial development in their neighborhood. He felt that any widening of 7th Avenue South would encourage shoulder parking. Mr. Bergman also stated that the neighborhood's beach access agreement with the City said that only residential parking would be permitted in the area. He felt that the commercial development would bring commercial related parking to the neighborhood. Mr. Bergman felt that the residents of Zenith knew what was best for their neighborhood. He said that they would have organized an LID if they felt a sidewalk would improve their area. Mr. Bergman asked Council to waive the sidewalk requirements of the projects. In closing, Mr. Bergman asked all those in the audience who supported his comments to raise their hands.

Several individuals raised their hands to signify agreement with Mr. Bergman's comments.

Peter Skelly, 23622 7th Avenue South

Mr. Skelly voiced support for Mr. Bergman's comments. He said that he was not in support of the condominium or commercial development in his neighborhood. Mr. Skelly said that if sidewalks were to be installed, it should have been done one and one half years ago when the streets were tore up.

City Manager Olander noted that an application had been filed with the City for the referenced projects. He said that quasi-judicial hearings would be conducted for them. City Manager Olander explained that the Code required sidewalks for all commercial, multifamily and subdivision developments but noted that Council could chose to modify the projects.

City Attorney McLean briefly described the quasi-judicial hearing process. He encouraged concerned citizens to share their comments with Council during the public hearing process. He noted that the quasi-judicial procedures also applied to the Planning Agency process.

Mary Benson, 702 South 236th

Ms. Benson felt that residents should have the right to comment on projects affecting their neighborhood. She noted that 7th Avenue South turned sharply on to South 236th Street.

Scott Weno, 23922 7th Avenue South

Mr. Weno informed Council that he chose to live in the Zenith area due to its sense of community. He felt that the neighborhood was safe and the the current street width was adequate. When the projects were brought before them, Mr. Weno asked Council to remember how many residents had come to this meeting to express their concerns.

Jenny McMonagle, 708 South 240th

Ms. McMonagle felt that sidewalks would not increase the safety of the Zenith neighborhood. She said that she had never tripped while walking in the area with the assistance of her guard dog.

Roger Gallington, 23913 6th Avenue South

Mr. Gallington felt that the Zenith neighborhood had retained its character of small lots lining narrow streets. He voiced concern that any widening of the streets would increase traffic in the area. Mr. Gallington commented that preserving neighborhoods was an objective of planning and he felt that sidewalks would not meet this objective.

Mary Benson, 702 South 236th

Ms. Benson informed Council that the 38th Annual Waterland Fashion Show would be conducted July 21, 2001 at Grace Lutheran Church. The event included dinner, entertainment, and a fashion show. She invited the community to attend the event.

BOARD & COMMITTEE REPORTS

State Building Code Council

Councilmember Brazil announced that the State Building Code Council would conduct a meeting in the Des Moines Council Chambers on July 13, 2001.

Public Safety & Transportation Committee

Councilmember Sherman reported that the committee had completed review of the proposed Transportation Comp Plan. He said that options for the Plan would be presented to Council in the fall.

Zenith Neighborhood Sidewalks

MOTION was made by Councilmember Wasson, seconded by Councilmember Kaplan and passed unanimously to discuss the issue of sidewalks in the Zenith neighborhood at the next Council meeting.

PRESIDING OFFICER'S REPORT

Fourth of July Fireworks Display

Mayor Thomasson thanked the citizens who sponsored the Fourth of July Fireworks Display for their efforts and the event.

ADMINISTRATION REPORTS

Request for Executive Session

City Manager Olander asked that Council conduct an executive session after the meeting to discuss labor relation issues.

Council concurred.

CONSENT CALENDAR was read by Deputy City Clerk Chaufty.

1. Motion is to approve the minutes of June 28, 2001.
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 # 76948 through # 77089 in the total amount of $190,115.79
      Payroll fund transfers in the total amount of $294,569.81
3. Motion is to authorize the City Manager to approve all vouchers for payment of the following claims during the period of July 12, 2001 through July 26, 2001:
   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 9, 2001 meeting.
4. Motion is to authorize the purchase of 1,548 square feet of land and improvements from Dong and Un Kim in the amount of $38,938, plus closing costs, and further to authorize the City Manager to sign the purchase and sale agreement substantially in the form as submitted.
5. ~~Motion is to award the construction contract for the 2001 Arterial Maintenance Project to Western Asphalt in the amount of $420,358 plus a 10% contingency, and further to authorize the City Manager to sign said contract substantially in the form as submitted.~~
6. ~~Motion is to supplement the current contract for professional engineering services for the 2001 Arterial Maintenance Program with KPG to include construction management services in the amount of $48,533.02, plus a 10% contingency, and further to authorize the City Manager to sign said supplement substantially in the form as submitted.~~
7. Motion is to authorize the Public Works Director to spend any balance in the 2001 Arterial Maintenance Program budget to accomplish additional overlay work at the unit prices given in the construction contract.

~~8. Motion is to authorize the payment of $62,730 plus a 10% contingency to Ashton Development Company, L.L.C., for the reconstruction of South 226th Street between 6th and 7th Avenue South, in conjunction with private payments and in-kind service contributions being made as part of Environmental Mitigation obligations of the Wamsley and Ashton Development projects, and to authorize the City Manager to sign the contract with Ashton substantially in the form as submitted.~~

9. Motion is to purchase 2,265 square feet of land and improvements from Alsog Morgan in the amount of $37,929, plus closing costs, and to authorize the City Manager to sign the purchase and sale agreement substantially in the form as submitted.

MOTION was made by Councilmember Brazil and seconded by Councilmember Towe to approve the consent calendar as read.

Consent Calendar Item No. 8 was removed by Councilmember Sherman.

Councilmember Wasson removed Consent Calendar Item Nos. 5 and 6.

VOTE ON MOTION: Motion passed unanimously.

CONSENT ITEMS

Item Nos. 5 and 6 - Arterial Maintenance Program

MOTION was made by Mayor Thomasson and seconded by Councilmember Brazil to award the construction contract for the 2001 Arterial Maintenance Project to Western Asphalt in the amount of $420,358 plus a 10% contingency, and further to authorize the City Manager to sign said contract substantially in the form as submitted.

Councilmember Wasson stated his opposition to the motion due to the 10% contingency. He felt that inclusion of a contingency amount was not a sound business practice.

Councilmember Brazil voiced his support for the motion. He explained that the contractor had to justify use of the contingency. He felt that staff adequately monitored the use of contingency funds. Councilmember Brazil thought that specific overlay projects could be delayed significantly and streets could be closed if staff had to bring each change order to Council.

In response to Councilmember Kaplan's questioning, Assistant City Engineer Andrews explained that cost overruns could occur if an unforeseen need for full depth repair of a street was discovered.

Public Works Director Heydon noted that soft spots could require other options such as fabric overlay.

VOTE ON MOTION: Motion passed, 5 – 1, with Councilmember Wasson opposed.

MOTION was made by Mayor Thomasson and seconded by Councilmember Towe to supplement the current contract for professional engineering services for the 2001 Arterial Maintenance Program with KPG to include construction management services in the amount of

$48,533.02, plus a 10% contingency, and further to authorize the City Manager to sign said supplement substantially in the form as submitted.

Upon questioning from Councilmember Kaplan, Assistant City Engineer Andrews explained that additional testing or design work might be required if the condition of a roadway was not found to be as anticipated.

Councilmember Wasson said that he was opposed to the motion due to its 10% contingency provision.

Councilmember Brazil noted that the State now offers an incentive to contractors who complete their projects ahead of schedule. He suggested that the City might want to consider this option for major projects.

Councilmember Sherman asked that staff provide Council with a report concerning the use of contingency fees for 2000 projects.

City Manager Olander said that the report would be done at the next meeting.

VOTE ON MOTION: Motion passed, 5 – 1, with Councilmember Wasson opposed.

Item No. 8 – South 226th Street Improvements

Upon Councilmember Sherman's request, Assistant City Engineer Andrews reviewed the budget for the project.

MOTION was made by Mayor Thomasson and seconded by Councilmember Sherman to authorize the payment of $62,730 to Ashton Development Company, L.L.C., for the reconstruction of South 226th Street between 6th and 7th Avenue South, in conjunction with private payments and in-kind service contributions being made as part of Environmental Mitigation obligations of the Wamsley and Ashton Development projects, and to authorize the City Manager to sign the contract with Ashton substantially in the form as submitted.

VOTE ON MOTION: Motion passed, 5 – 1, with Councilmember Wasson opposed.

OLD BUSINESS

Draft Ordinance No. 01-119 Duties of the Planning Agency - 1st Reading

City Manager Olander informed Council that he had received a call from Mayor Pro Tem Sheckler requesting that Council postpone final action on this issue until he was present.

Community Development Director Kilgore explained that the proposed ordinance would transfer decision making authority for a variety of land use actions from the City Council to the Planning Agency and would expand the agency from seven to nine members. The two additional members would be Councilmembers. Community Development Director Kilgore noted that the draft ordinance had been prepared in response to Council's direction. She detailed the following options before Council:

1. Discuss and/or revise the proposed Ordinance. Direct staff to schedule a public hearing for August 9, 2001 regarding the issue.
2. Direct staff to revise the draft ordinance and return the amended draft to Council for review.
3. Delay discussion of the issue until full Council was present.

Community Development Director Kilgore noted that the word “shall” had been changed to “may” in Section 23 of the proposed ordinance. This change was recommended as it was consistent with current practice. She also said that the draft ordinance directed the Planning Agency to use Council’s Rules of Procedure while conducting a public hearing.

Councilmember Sherman confirmed that under the proposed ordinance subdivisions would go before the Planning Agency rather than to Council. Councilmember Sherman cited the comments received from the Zenith residents previously in the meeting as an example of his belief that such decisions should be made by elected officials.

Mayor Thomasson opposed giving Council’s legislative duties to the Planning Agency. He felt that the elected Councilmembers and appointed Planning Agency members had different responsibilities. He believed that Council had time to continue reviewing land use issues.

Councilmember Kaplan noted that the Council currently accepted recommendations from other various advisory boards. He felt that the public would petition the decision makers on certain matters whether they were elected or appointed officials. Councilmember Kaplan said that he trusted the appointed members to make sound decisions.

Mayor Thomasson noted that changes to a final plat were limited by the preliminary plat decisions.

Community Development Director Kilgore confirmed that developers would begin improvements after preliminary plat approval was received.

Councilmember Towe concurred with Councilmember Kaplan’s comments. He felt that the proposed ordinance would allow Council to serve in a policy role rather than participate in specific plan reviews.

Councilmember Wasson agreed with Councilmember Sherman’s statements. He said that the Planning Agency was appointed by Council but had no accountability to the citizens. He noted that the citizens had no opportunity to change the membership of the Planning Agency.

MOTION was made by Councilmember Kaplan and seconded by Councilmember Towe to direct staff to schedule a public hearing on August 9, 2001 to allow public comment on Draft Ordinance No. 01-119 as amended.

City Attorney McLean clarified that an approved motion would move the proposed ordinance on to a second reading.

Councilmember Brazil said he was inclined to support Councilmember Sherman's comments. He also spoke in favor of honoring Mayor Pro Tem Sheckler's request to postpone consideration of the issue until he could participate in the discussion.

VOTE ON MOTION: Motion passed, 4 – 2, with Councilmembers Sherman and Wasson opposed.

EXECUTIVE SESSION

At 8:48 p.m., Mayor Thomasson announced that the Council would convene in executive session for approximately thirty minutes to discuss personnel issues.

No formal action was taken.

NEXT MEETING DATE - Regular Meeting August 9, 2001

ADJOURNMENT

The meeting adjourned at 9:40 p.m.

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk