

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

September 9, 1999

The regular meeting of the Des Moines City Council was called to order at 7:36 p.m. by Mayor Thomasson in the Council Chambers, 21630 11th Avenue South.

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

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, Planning Manager Corbitt Loch, Building Official Larry Pickard, Public Works Director Tim Heydon, Park and Recreation Director Patrice Thorell, and City Clerk Denis Staab.

COMMENTS FROM THE PUBLIC

Dave Loft, 900 South 242nd Street

Mr. Loft addressed Council regarding a proposed Short Plat Application currently pending with Community Development. He noted staff has requested no access be allowed from the plat to Marine View Drive, instead staff is requesting a hammer head turn-around on South 242nd, developed to a 90 foot minimum. He feels this is unfair and invited Council to a tour of the proposed plat.

City Attorney McLean advised Council that at this point Community Development has not made a final determination of the plat. He further noted that after a final determination is issued, if Mr. Loft has any problems the proper procedure is to file an appeal with the Des Moines Hearing Examiner, not the City Council.

Jerry Guite, Local Business Owner and Des Moines Land Owner

Mr. Guite reminded Council that he was forced to move containers and a sign from his property as it was cited as a zoning code violation. He stated that he has the right to know who filed the complaint and has been unable to obtain that information. He further noted that he has complained about a foundation that has been left abandoned on 1st Avenue for almost a year and he has received no response from the City regarding this potential hazard.

BOARD & COMMITTEE REPORTS

Suburban Cities Association

Mayor Pro Tem Brazil reported that he and Councilmember Sheckler attended a recent meeting where Ron Rosenbloom from the Association of Washington Cities gave a good presentation on the impacts to various levels of government on Initiative 695. He advised that he has some great educational materials on the issue and that Administration will be distributing this information to all Councilmembers.

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the minutes of August 5, 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 #67732 through #68063 in the total amount of \$815,324.03

Payroll fund transfers in the total amount of \$610,952.09

3. Motion is to approve the Washington State Historical Society Contract #01-21-9920 for Des Moines Field House renovation project and authorize the City Manager to sign the contract substantially in the form as attached.

4. Motion is to approve the Interagency Committee for Outdoor Recreation Youth Athletic Facility Grant Account Agreement #99-1221D for Des Moines Field House Park Sports Field Lighting System and authorize the City Manager to sign the agreement substantially in the form as attached.

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 Item #1 prior to the public hearing.

NEW BUSINESS

Interagency Committee for Outdoor Recreation Agreement for Des Moines Sports Park Acquisition

Park and Recreation Director Thorell reviewed the history of the project, and with the use of a view foil noted the location of the proposed land acquisition at 24th Avenue South at South 220th Street. She noted that the sports field land acquisition is currently one of the Council's Strategic objectives to increase and develop facilities for indoor and active recreation, and that the 1999 Capital Improvement Plan identifies both the land acquisition project and future projects for phased facility development.

Mayor Pro Tem Brazil thanked Park and Recreation Director Thorell for her hard work on this project.

MOTION was made by Councilmember Towe, seconded by Councilmember Sheckler to approve the Interagency Committee for Outdoor Recreation WWRP Project Agreement 98-1137A for Des Moines Sports Park acquisition and to authorize the City Manager to sign the Agreement substantially in the form as attached.

Councilmember Kaplan reiterated previous statements that he feels we should not be spending money on this land purchase as the City cannot afford to develop the site, let alone pay for any maintenance. He noted he would prefer to see such funds spent to develop smaller neighborhood parks throughout the City.

VOTE ON MOTION: Motion passed 5 to 2 with Councilmembers Kaplan and Wasson voting NO.

City Manager Olander complimented Park and Recreation Director Thorell for her work on this long and arduous task of working with State and IAC officials to present Des Moines in the best possible light to obtain this funding.

PUBLIC HEARING

Draft Resolution No. 99-167 - CU99-048 Interim Conditional Use Permit (ICUP) for Ramada Inn and Associated SEPA Appeals

City Attorney McLean explained that two timely SEPA appeals have been filed challenging the issuance of a Determination of Nonsignificance by the City's SEPA Official, Judith Kilgore. He noted that because the underlying governmental action in this matter is the Interim Conditional Use Permit application filed by the Ramada group, the appeals are being consolidated with the permit application into a single hearing process. He explained the process that will be used.

City Attorney McLean announced that this matter is quasi judicial in nature and that the Appearance of Fairness Doctrine does apply. He questioned Council on whether they had any issues to report.

Councilmember Wasson responded that he was invited to, and attended, a meeting of Mr. Ulery and others, who had concerns over the Declaration of Nonsignificance issued for the proposed Conditional Use Permit of Ramada Inn. In response to questions, Councilmember Wasson asserted that he did not participate in the discussion nor did he make any remarks or statements. He further advised that the meeting was prior to Mr. Ulery filing a formal appeal on the DNS.

City Attorney McLean questioned Councilmember Wasson on whether he felt attendance at this meeting will have any influence on his decision on participating in this public hearing. Councilmember Wasson replied in the negative.

City Attorney McLean questioned Council on whether they had any concerns. Mayor Thomasson noted that he had some concerns that citizens may feel Councilmember Wasson's decision may be tainted in this matter.

City Attorney McLean questioned Mr. Ulery if he was agreeable to accepting Councilmember Wasson's participation in this matter. Mr. Ulery responded he was agreeable.

City Attorney McLean questioned whether SEPA Official Kilgore was agreeable to Councilmember Wasson's participation. She responded affirmatively.

City Attorney McLean ruled that Councilmember Wasson could participate in the matter before Council.

Staff Report

Community Development Director Kilgore reminded Council that the Interim Conditional Use Permit (ICUP) process was established with the moratorium on new construction within the Pacific Ridge area to allow for Council consideration of development proposals (during the moratorium) that fulfill Pacific Ridge redevelopment objectives per Council's draft goal statement. She noted that even if this ICUP is approved by Council the project will still need to meet all design review criteria and is subject to the normal building permit process. She

concluded her opening remarks by stating she feels this is an exciting project and meets the criteria as established by Council in their vision for the Pacific Ridge area.

Planning Manager Loch proceeded to present an overview of the project highlighting the following items:

- Location - East side of Pacific Highway South, south of S. 226th
- Showed slides of the property noting adjacent development - north, south and east is commercial, west is multifamily.
- Council Packet will be entered as an exhibit into the record
- Site Plan showing conceptual drawing of 5 story hotel with underground rear parking at one end, large courtyard in center of site and 1 story restaurant on other end of site. Phase II of the project would include future office space over the restaurant.
- Noted Council has been furnished with written material containing 1) SEPA DNS Notice of DNS and Public Hearing SEPA Checklist, 2) Documentation of Public Notice, 3) Geotechnical Engineering Study, 4) Traffic Impact Analysis and 5) additional written public comments. Will be entered into the record as exhibits.
- Business signs will be located on the north and south sides only.
- Landscaping, including low indirect lighting.

Planning Director Loch stated that he believes the proposed permit fulfills Councils visions and goals and is an important first step in realizing the redevelopment of the Pacific Ridge area. He reminded Council that the draft resolution contains staffs recommended conditions of approval. He felt the project is of high quality with visual interest and that it adequately addresses security issues. He reminded Council that current codes would allow for the whole site to be covered with a solid three story building with no underground parking.

Applicant

Dan Baggen, 520 4th Avenue Street #39, Kirkland - Architect for Applicant

Mr. Baggen noted that the project was originally proposed in December of 1998 as a 4 story long straight building with parking in the front. With the moratorium in place and direction of City staff, the applicant has chosen to totally change the design. He reviewed the design elements of the project noting some of the following points:

- Rear portion of L-shaped building is now stepped back in the eastern side to help reduce impacts to the neighboring Access Condominiums.
- Variety of styles of roof line for the hotel, along with a different line for the restaurant to be more visually pleasing.
- Pedestrian friendly with direct access to hotel and restaurant from the street, building to the sidewalk.
- Exterior is stucco, with darker color at ground level, shading lighter to the top of the building.

Dean W. Wilson, 26621 SE 172nd, Issaquah - Professional Soils Engineer for Applicant

Mr. Wilson noted the following items:

- 80% of drainage will be handled by gravity towards South 226th, the balance will be into an established easement.
- Good foundation soil - no pilings will be needed which will cut down construction noise impacts.

SEPA APPEALS

City Attorney McLean announced that the two SEPA appeals will now be heard. He requested all individuals who wished to be heard stand and administered the oath.

James Ulery, 22707 30th Avenue South #6

Mr. Ulery advised Council that he has filed a formal appeal to the DNS determination on the project based on the following issues:

- The project is in direct violation of existing height restriction zoning regulations.
- It will set a precedent for future actions with significant effects as outlined in Washington Administrative Code Title 197, Chapter 197-11.
- Natural Environment affected because it is so out of scale with existing buildings.
- Air quality impacted due to increase in vehicle traffic vapors and fumes from the proposed hotel and restaurant operations.
- Surface water run off will adversely affect all surrounding properties due to large size of the development.
- Energy and natural resources will be affected by requiring additional overhead power lines and larger water and sewer lines. Increase vehicular traffic will cause a shortage of available fuel to existing residents and businesses.
- The natural topography of the property to the east will be adversely affected by a five story building which will create an amphitheater affect from increase vehicle and residential traffic along with increase in air traffic noise. Noise will be projected toward east residential properties.
- Project will dwarf existing buildings in the entire City. The majority of affected properties are residential.
- A hotel operates 24 hours a day with lighted signs, parking lots, vehicle lights and windows reflecting solar glare toward the residential properties to the east in the a.m. and to the west in the p.m.
- Pacific Highway South is currently gridlocked during peak hours and is a secondary highway whenever I-5 is backed up, causing worse conditions. The addition of over 200 cars and trucks a day will adversely affect the area.

Mr. Ulery concluded by stating he does not believe a hotel will encourage further business or residential development. And he further noted, there is no proven need for a hotel in this area.

Upon questioning by City Attorney McLean, Mr. Ulery stated he had no studies to submit as he had only one day to prepare his appeal. He noted he would like more time to prepare further documentation. However, he noted he lives in the area and has first hand personal knowledge of what he is presenting.

Access Condominiums Homeowners Association, Represented by Angelia Harlow, Attorney
Ms. Harlow addressed the concerns of her clients commenting that the goals of Council in the Pacific Ridge area are reasonable, but care must be taken in how these goals are applied. She noted that the project is massive and may not be well suited to this area with residential so close. She encourage further environmental review and study citing the following issues:

- Insufficient provisions to alleviate light and glare.
- Failure to consider a myriad of significant drainage issues with a project of this size and magnitude.
- Needs additional traffic study - requested this be kept open for 14 days for additional information.
- Noise from construction needs to have hours limited and more mitigation for noise pollution.
- Soil instability - No mention of a spring located in the western portion of the property. This issue requires more study.
- In Lieu fee for Highway frontage is vague, lacks definition.
- Project of such a large structure will create significant property devaluation.

Ms. Harlow concluded by stating that the residents of Access Condominiums feel that an Environmental Impact Statement should be required and the Determination of Nonsignificance should be withdrawn.

9:00 p.m. Mayor Thomasson declared a 10 minute break.

SEPA Official's Response

SEPA Official Kilgore noted that it is her responsibility to uphold environmental compliance and in her opinion a Determination of Nonsignificance was appropriate for this project using all guidelines i.e. WAC 197.11.330. She noted this determination was made using the threshold of "probable significant" adverse impacts. She advised that any new project has impacts, but the key word is significant. She stated that mitigation has been achieved through the suggested conditions of approval as submitted for Council's consideration.

Larry Pickard, Building Official

Building Official Pickard testified that he read the detailed soils report. He further noted that actual plans will be reviewed when a building permit is actually applied for. He stated that use of energy will be reviewed based on the Washington State Non-Residential Energy Code. He reviewed hours of construction per Des Moines Municipal Code are: 7 a.m. to 7 p.m. Monday through Saturday, 8 a.m. to 5 p.m. on Sunday, with heavy equipment operation allowed 8 a.m. to 5 p.m. Monday through Friday. Upon questioning by Planning Manager Loch, Mr. Pickard stated that he saw no significant adverse impacts from this proposed project.

Tim Heydon, Director of Public Works

Mr. Heydon advised that he reviewed the geo-technical reports in detail. He also stated that the storm drainage facilities meet all King County standards. Upon questioning by Planning Manager Loch, Mr. Heydon stated that he determined there will be no significant adverse impacts from this project.

In regards to the Traffic Study Report, Planning Manager Loch stated that the report was reviewed in detail by the Public Works Director and the Community Development Department and at their request, the applicant will remove the proposed southerly driveway or, develop it as a shared access or for emergency vehicle access only. Public Works Director Heydon advised that traffic volumes on Pacific Highway South are high, but he sees no significant change and planned future improvements will insure there are no significant impacts caused by the proposed development.

Upon questioning, Public Works Director Heydon informed Council that the purpose of “In Lieu Fee” for highway frontage is that the Highway 99 project is scheduled for about a year from now. He stated it would be a waste of finances to have to rip out new facilities. He testified that he sees no problem in being able collect those funds, or determine the proper amount to charge.

Planning Manager Loch noted the following issues related to the SEPA Official’s decision:

- Utilities, water and sewer, are adequate with a westerly utility easement as one of the conditions.
- Noise - Construction hours are limited and proposed building modulation and landscaping adequately mitigate noise issues when construction is complete.
- Odor and emissions from fuel and the restaurant are not significant
- Lighting is shielded from residential structures, with non-glare lights.
- Signs that are lighted are made of opaque, minimum-glare material
- Glass windows are exterior of building are not mirror or reflective material.
- Height of proposed project is not out of scale and is less massive than a long solid structure which could be built there now, under existing zoning.
- Any loss of view is contained within one portion of the site representing 30% of the north-south length of the site.
- All utilities will be underground as will the majority of onsite parking.

In conclusion, Mr. Loch stated that based on all studies, that an Environmental Impact Statement is not warranted.

Mayor Thomasson noted that he will now accept comments from proponents and opponents.

City Attorney McLean reviewed the rules for conducting a public hearing and reminded the audience that if they had not previously taken an oath they should do so before testifying.

PROPONENTS

Mr. Greg Heath, Performed Traffic Study for Applicant

Mr. Heath noted that a careful traffic study was made and meetings with City staff were held to ensure the project meets with industry standards. The project was carefully analyzed to ensure that it will be compatible with the planned improvements to Pacific Highway South. He noted that the new building will buffer traffic noise for the residents to the west.

Clarice James, Executive Director Des Moines Chamber of Commerce, 23459 27th Avenue South

Ms. James noted that the Chamber supports the project as a much needed “face lift” for the Pacific Highway South business area. She cited the proposal will bring jobs and provide much

needed conference meeting room space to the Des Moines area. She noted that there are few quality hotels in Des Moines. She noted that, personally, the proposed hotel security system would make her feel safer being in that area.

Rajinder Johal, 22520 108th Avenue SE, Kent - Owner of Project

Mr. Johal, owner of the property, assured Council that he does not plan on selling. He noted the hotel will be gated with a security system. He felt that this is a good project for Des Moines.

Jim Mesick, 22005 6th Avenue

Mr. Mesick stated that he is very excited about the proposed project and feels the community as a whole should embrace this proposal. He expressed surprise that there would be any opposition as most current business buildings are deteriorating. He noted that currently he will not shop on Highway 99 because he does not feel safe. He commended Council on their stance on creating this type of zoning and felt this is the type of project to start with.

Patricia Oh, 5608 89th Avenue SE, Mercer Island - Real Estate Consultant

Ms. Oh commended the City for forward thinking to encourage good development by the private sector. She noted that with the areas around Des Moines developing so rapidly the same will happen here. She was pleased to see Des Moines taking steps to encourage good planning.

Jack Kniskern, 22602 13th Avenue South

Mr. Kniskern noted that Pacific Highway South is an important transportation corridor and he cited this project as a great start for forward thinking for redevelopment of this area. Mr. Kniskern presented a letter of support from David Peterson who had to leave the meeting earlier.

OPPONENTS

Rich Marquiss, 22625 30th Avenue South

Mr. Marquiss noted he is opposed to the project because he will lose his beautiful view. He noted that building height has always been limited to 35 feet and Council would not change the downtown building height because of the view so they should not change Pacific Highway South for the same reason. He noted that this higher intensity use will only increase crime. He also complained that vehicle headlights leaving the proposed site will shine directly into bedroom windows to the east. He concluded by stating years ago there used to be a service station on this property and he questioned whether fuel tanks are still buried there.

Sherill Ulery, 22707 30th Avenue South #6

Ms. Ulery stated she lives directly east behind McDonald's Restaurant. She noted that noise levels from supplies being delivered is awful. She further objected to this project as increased traffic impacts from employees and people using the restaurant and hotel as will be too intensive. She complained that public notice was not adequately given to effected residents. She encouraged Council to think of the impacts on tax paying citizens.

Tanzel Lundstrom, 22700 28th Avenue South #108 - Access Condominiums

Ms. Lundstrom felt that traffic study was not adequate as it offered conflicting numbers on vehicle traffic trips per day. She expressed concern over the size of the proposed hotel, especially as the back of the building will face the Access Condominiums.

Mick Rice, 534 SW 316th Federal Way (Owner of Apartments in Des Moines)

Mr. Rice stated he is opposed to the project as the scale is way out of line by being too large. He agrees the area needs new development, but not of this nature. He felt that a motel just encourages transients which will impact those residents who live in the area. He requested Council move more slowly on this project.

Julie Duncan, 22700 28th Avenue South - Access Condominiums

Ms. Duncan stated that the size of the hotel will block her morning sunshine. She also voiced objection to the project as it will destroy the existing vegetation which is home to numerous birds. She further noted that the size of the whole project is inappropriate.

PROPOSERS REBUTTAL

Dan Baggen, Architect for Ramada Inn

Mr. Baggen offered the following rebuttal comments to objections raised:

- Vehicle headlights will be negated by solid screen of vegetation (this is a condition already listed by staff).
- Soil Stability - Additional studies will be conducted and 3 additional borings are planned.
- Regarding light and glare - welcome ideas and input from residents on the west and east.

Dean Wilson, Soil Engineer

Mr. Wilson offered the following comments:

- Drainage Issues - Have followed King County Design Manual with two detention systems.
- Soil Stability - Soil studies indicate soil can take 5,000 square feet of pressure, more than adequate for the proposed structures.
- Ground Water - Transported generally to the west. No moisture will get into till levels as it is totally mitigated.
- Three more soil borings will be taken.
- Every effort is being taken to assure a safe project.

Mayor Thomasson inquired as to whether staff had any further testimony or which to address any misstatements of facts.

Community Development Director Kilgore and Planning Manager Loch noted the following items:

- Height will be measured from the sidewalk level, not the average finished grade.
- Noise issue of comparing McDonalds versus this project - McDonalds as a fast food restaurant uses semi trucks for delivery, whereas hotel and the proposed restaurant would use more of panel van type delivery. Restaurant would be a sit down, normal meal time, not fast food drive through.
- Proper legal notice was given to all property owners within 300 feet of the proposed project. Notice was in the City Currents and staff has met with various groups on an informal basis. The Council has not been presented with any material to begin deliberating the whole Pacific Ridge area, therefore no notices have been sent out to residents of the whole area.
- Traffic impact studies have been instituted by a licensed engineer in accordance to established standards for this project. Project expects to be completed in one year. Long term traffic planning will be undertaken during the issue of the Pacific Ridge area as a whole.

- New view opportunities will be offered to properties to the east as the Pacific Ridge zoning takes effect as building heights will even be higher. Currently Des Moines does not have a view preservation ordinance.
- Some morning sunshine may be blocked at Access Condominiums during short periods of time, during certain times of the year, but that the impact is not expected to be significant, and therefore worthy of an environmental impact statement.

City Attorney McLean reminded Council that certain written material has been distributed to Council and entered into the record. He advised that this material is available to the public from the City Clerk's office during regular business hours. He cited the following items:

- Additional Written Public Comment
- SEPA DNS - Notice of DNS and Public Hearing - SEPA Checklist
- Documentation of Public Notice
- Geotechnical Engineering Study
- Couple of letters from the public that had to leave tonight's hearing early

As there was no further testimony, Mayor Thomasson CLOSED the oral public testimony input portion of the Public Hearing. He announced that written testimony will continue to be accepted until 4:30 p.m. Monday, September 20th.

Upon questioning by Council, City Attorney McLean, reminded Council that this is a quasi judicial proceeding therefore, Councilmembers must refrain from discussing this item with the public or each other.

COUNCILMEMBER QUESTIONS

Councilmember Sherman:

- Requested more information about a reported spring, claims of excess water on the property and how will these issues be address.
- Questioned if the soil is contaminated from previous use as a gas station.
- Requested project Architect get with Access Condominium attorney concerning actions applicant might take to alleviate light glare.

Councilmember Towe:

- Wants more information about the topography on properties to the west, are there any current drainage problems.
- Clarify where the proposed building is over 55' in height and by how much.
- Were the six parcels owned individually or jointly before purchased by Mr. Johal.

10:29 p.m. **MOTION** was made by Councilmember Sherman, seconded by Councilmember Kaplan to extend the meeting another 10 minutes. Motion passed 6 to 1 with Mayor Pro Tem Brazil voting NO.

Councilmember Kaplan:

- Is proposed vegetation screening only on the east or west, or both. Will it screen vehicle headlights.
- Was a strip mall project ever proposed for this site.
- Questioned Access Condominium Attorney on why it is felt that the proposed drainage plan is inadequate.

- What is the current volume of vehicles on Pacific Highway South and what will it be after plan improvements are constructed.
- What are the issues associated with the utility easements and where exactly will they be located.
- How tall is the Shepard Nelson building.
- How tall is the landscaping associated with the Pacific Highway South improvements, medium and sides.
- What are the issues associated with lowering the stormwater tie-in on South 226th.
- Expressed concern with traffic flow with no left turn from 226th to Pacific Highway South, questioned what impacts might there be to residential streets, 24th Avenue South in particular.
- Can South 226th be straightened out or widened for turning on to, or off of, Pacific Highway South.

Mayor Thomasson:

- What interim roadway improvements may be provided.
- Particularly concerned about pedestrian traffic especially trying to cross Pacific Highway South.
- Provide more information about how the in-lieu fees will be calculated and obtained.
- Until the Pacific Highway South improvements are constructed if left turns out of the hotel are allowed, what traffic/safety impacts might result.
- Provide more information about the impacts of soil excavation and transport.
- What is the proposed floor area ratio. Is it within the range contemplated for the Pacific Ridge area.

Mayor Thomasson announced that the hearing will be continued at the September 23, 1999 meeting. He encouraged all those who have testified tonight to be in attendance in case Council has questions.

NEXT MEETING DATE

Mayor Thomasson announced the next regular meeting is scheduled for September 23, 1999

ADJOURNMENT

The meeting adjourned at 10:38 p.m.

Respectfully submitted,

Denis Staab
City Clerk