REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES September 23, 1999

The regular meeting of the Des Moines City Council was called to order at 7:35 p.m. by Mayor Thomasson in the Council Chambers, 21630 11th Avenue South.

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

ROLL CALL - Present: Mayor Scott Thomasson, Mayor Pro Tem Terry Brazil (left at 7:55 p.m.), Councilmembers Dave Kaplan, Bob Sheckler, Dan Sherman, Gary Towe, and Don Wasson (left at 9:15 p.m.). Also present were City Manager Bob Olander, Assistant City Manager Tony Piasecki, City Attorney Gary McLean, Community Development Director Judith Kilgore, Finance Director Scott McCarty, Public Works Director Tim Heydon, Planning Manager Corbitt Loch, Building Official Larry Pickard, Budget Accountant Peggy Watson, and Deputy City Clerk Angela Chaufty.

COMMENTS FROM THE PUBLIC

Jerry Guite, 21317 Marine View Drive SW, Normandy Park

Mr. Guite thanked staff and Council for their quick response to his concerns voiced at the September 9, 1999 meeting. He informed Council of the placement of containers in various parts of the City. He asked that code enforcement be applied uniformly. In closing, Mr. Guite stated that he would like to be reimbursed for his losses and get his container back.

Mr. Guite handed some printed material to the clerk for distribution to Council.

BOARD & COMMITTEE REPORTS

Des Moines Senior Services Advisory Committee

Councilmember Sheckler announced that a Senior Center fundraiser would be held November 14, 1999 at Anthony's Homeport. Reservations for the event can be obtained by calling (206) 878-1642.

Municipal Facility Committee

Councilmember Towe reported that the committee had met to study the long range Marina Master Plan. They had reviewed marina market trends, rate structure, and various issues involving covered and non-covered moorage.

South County Area Transportation Board

Councilmember Sherman informed Council that the Board had approved a letter addressed to the Transportation Improvement Board recommending funding for Pacific Highway South and 16th Avenue South improvements. He also noted that proposed rule revisions would be brought before Council in the near future. Councilmember Sherman suggested that Council consider appointing Assistant City Engineer John Morast to serve as his alternate when he is unable to attend the meetings.

PRESIDING OFFICER'S REPORT

Agenda Revision

Mayor Thomasson announced that Item No. 1 under New Business would be discussed prior to the continuation of the public hearing.

ADMINISTRATION REPORT

Briefing: I-695 Loss of Revenue Projections

Assistant City Manager Piasecki reviewed the Year 2000 and 2001 revenue projections with and without the passage of Initiative 695. Should Initiative 695 pass, he noted that projected cuts to Sales Tax Equalization, Motor Vehicle Excise Tax, Camper Excise Tax, and Criminal Justice revenues would result in a loss of $1,752,487 in Year 2000 (18% of the City's General, Street and Park budget) and $2,382,631 in Year 2001 (22% of the City's General, Street and Park budget). Similarly, project revenue for arterial streets would result in a loss of $384,540 in Year 2000 and $396,957 in Year 2001.

Upon questioning, Assistant City Manager Piasecki explained that a special session of the legislature would need to be called in order for the state to designate some replacement revenues should Initiative 695 pass. He noted that there has been no indication that a special session might be called.

Finance Director McCarty explained the background of the Motor Vehicle Excise Tax and confirmed that the passage of Initiative 695 would allow for the levying of a personal property tax.

At 7:55 p.m., Mayor Pro Tem Brazil left the meeting due to a family emergency.

Councilmember Sheckler stated that most states having $30 to $50 license tabs also have a state income tax levied.

Finance Director McCarty confirmed that the initiative, if passed, would require additional taxes or fees to be approved by the vote of the people.

If Initiative 695 passed, Mayor Thomasson stated that it was important for the city to set the tax rate before the initiative was certified by the Secretary of State.

Councilmember Towe asked that staff prepare an itemized list of all current fees and taxes that could be encumbered by the passage of the initiative.

CONSENT CALENDAR was read by City Attorney McLean.

1. Motion is to approve the minutes of September 2 and 9, 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 # 68428 through #68594 in the total amount of $472,281.85
   Payroll fund transfers in the total amount of $185,953.26

3. Draft Resolution No. 99-189 ***[Assigned Res. No. 873]*** - Title: A Resolution of the City Council of the City of Des Moines, Washington, ratifying and confirming interfund loans as authorized in Ordinance No. 1228 and as reflected in Appendices "A", "B" and "C" attached hereto.

MOTION is to approve Draft Resolution No. 99-189.

4. Draft Resolution No. 99-191 ***[Assigned Res. No. 874]*** - Title: A Resolution of the City Council of the City Des Moines, Washington, rejecting the Lakehaven Utility District's Comprehensive Wastewater Plan.

MOTION is to approve Draft Resolution No. 99-191.

~~5. Draft Ordinance No. 99-190 Title: An Ordinance of the City of Des Moines, Washington extending the current moratorium for the acceptance of applications for and issuance of any permit or approval currently required for building, construction and other land use action in the area known as "Pacific Ridge" for an additional six months beyond its upcoming expiration, setting a date for a public hearing on the extension of the moratorium, continuing exceptions to the moratorium, continuing the interim conditional use permit process for Pacific Ridge development proposals proposed during the moratorium, reconfirming the Council's direction for Administration to develop a comprehensive ordinance designed to encourage redevelopment and improvements in the Pacific Ridge area that promote and enhance the quality of life in the community, encouraging participation by interested residents and businesses in the development of the long-range plan and rezoning for Pacific Ridge, and declaring an emergency.~~

~~MOTION is to approve Draft Ordinance No. 99-190.~~

6. Motion is to authorize the City Manager to exceed the previously authorized construction contract contingency of 10% by $5,763 with the additional cost to be paid by Highline Water District and King County Housing and Community Development.

MOTION was made by Councilmember Sherman and seconded by Councilmember Sheckler to approve the consent calendar as read.

Councilmember Wasson removed Item No. 5.

In response to Councilmember Kaplan's questions regarding Item No. 3, Finance Director McCarty explained that the intent of the proposed resolution was to pay off all three loans by the end of 1999. He said that only the Revenue Stabilization Fund loan to the Airport Defense Fund would remain.

In response to Councilmember Kaplan's question regarding Item No. 4, Public Works Director Heydon noted that the proposed resolution would ensure that the 90-day time limit would not expire before the City of Des Moines' concerns were properly addressed.

VOTE ON AMENDED MOTION: Motion passed unanimously.

OLD BUSINESS

Draft Ordinance No. 99-190 ***[Assigned Ord. No. 1242]*** - Six Month Extension of Pacific Ridge Moratorium

MOTION was made by Councilmember Kaplan and seconded by Councilmember Towe to approve Draft Ordinance No. 99-190 extending the Pacific Ridge area moratorium for an additional six months, through March 31, 2000.

Councilmember Wasson stated that he was opposed to the proposed ordinance due to the lack of public meetings informing the people that their neighborhoods could be changed. He stated that he supported the improvement of the Pacific Ridge area but desired the plan to be more democratic. He questioned whether it was too late for the people to influence the outcome.

City Manager Olander explained that the moratorium would allow public participation that would not normally be solicited.

Mayor Thomasson expressed concern that the necessary work would not be complete in six months.

Councilmember Towe noted that Council had identified this topic as a major issue and had directed staff to establish an aggressive timeline. He said that Council was responsible for keeping the process moving forward. He also felt that the moratorium was the best method to accomplish the goals of Council.

Councilmember Kaplan voiced support for Councilmember Towe's comments.

Upon questioning, City Manager Olander confirmed that the process was slightly ahead of the schedule previously set by Council. He also informed Council that a $75,000 grant from the State Community Development Department had been awarded for the Neighborhood Plan.

City Attorney McLean confirmed that adoption of the moratorium extension would require a public hearing within sixty days.

Councilmember Towe stated that he felt there had been considerable public participation in the process so far and noted that more participation would be solicited as Council and the consultant continued to develop the plan.

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

NEW BUSINESS

Year 2000 Reserve Funds Cash Projections and Year 2000 Debt Service

Finance Director McCarty reviewed the projected financial condition and Year 2000 cash flow projections for the following funds:

Unemployment Compensation Fund	Equipment Rental - Operations
Facility Repair and Replacement Fund	Equipment Rental - Replacement
Self Insurance Fund	Computer Operations
Revenue Stabilization Fund	Computer Replacement Fund

Budget Accountant Watson reviewed the outstanding balances and maturity dates for the following bonds and notes:

General Obligation Bonds	General Obligation Notes
1987 Library/Beach Park	1992 PW Trust Fund Loan

1992 Downtown Improvements
1995 Police Facility
1997 City Hall Expansion
1998 Park Land Acquisition
1997 State Revolving Loan (Barnes Creek)
1997 PW/Parks Service Center
1998 Limited G.O. Note – Airport Defense
1999 Senior Center Land Acquisition
1999 PW Trust Loan (Marine View Drive Bridge)

Enterprise Funds Bonds
1968 Marine Revenue Bonds
1993 Marina G.O. Bonds
1997 Marina G.O. Bonds

At 9:00 p.m., Mayor Thomasson declared a ten minute break.

CONTINUED PUBLIC HEARING

Interim Conditional Use Permit and Associated SEPA Appeals - Ramada Inn

Mayor Thomasson noted that the public comment portion of the hearing had been closed and written testimony had been received through September 21, 1999.

City Attorney McLean reminded Council that this was a quasi-judicial matter. He noted that Councilmember Wasson had made a personal decision to recuse himself from the proceedings as he had experienced an inadvertent ex-parte communication as explained at the September 9, 1999 meeting. Despite the fact that he felt that he could be fair, Councilmember Wasson did not want the integrity of the process to be compromised.

At 9:15 p.m., Councilmember Wasson left the chambers.

Community Development Director Kilgore addressed Council's questions regarding the site's soil stability, possible soil contamination, surface water and drainage issues, and traffic concerns. Ms. Kilgore stated that engineer tests and testimony revealed that the soil could support the development. She noted that the agenda packet contained a letter verifying that a soil contamination study had been performed and that the results had indicated no on-site contamination. Community Development Director Kilgore stated that additional testing and on-site visits as well as previous reports and expert testimony revealed no evidence of a natural spring on the site. She said that the development of any natural drainage would be piped and treated in the project as approved. She also noted that the project could easily tie into existing facilities. Ms. Kilgore said that she had reviewed the traffic study and had concluded that no significant adverse impacts would occur to South 226th Street due to the right turns associated with the project nor to Pacific Highway South as the vehicular access would be consolidated in one location. In closing, Ms. Kilgore reiterated her belief that the project would not result in a significant adverse environmental impact.

Planning Manager Loch stated that the written comments as well as the geotechnical report from Earth Consultants had been distributed to Council. He also noted that a summary of public notification and outreach for the Pacific Ridge Planning Project and a list of the comprehensive plan policies relating to Ramada Inn and/or Pacific Ridge had been given to Council. In regard to the concerns expressed in the appeals, Planning Manager Loch explained that the proposed project would utilize Type 1 landscaping. He noted that a solid screen at least ten feet tall would be situated on the west property line. This screen would block vehicle lights and sounds. He also noted that the design called for three to four tree and shrub planting areas on Pacific Highway South. Planning Manager Loch stated that the parking garage would also alleviate lighting and noise. Mr. Loch then exhibited a map displaying the distance of the surrounding residencies to the proposed building. He noted that the closest point was approximately 135 feet (Access Condominiums) while Mr. Ulery's complex was approximately 330 feet in distance. After drawing the proposed landscaping on the map, Mr. Loch stated that he believed there would not be any significant adverse affects caused by lighting and noise. Planning Manager Loch reviewed the public notification process for the project. He then defined a "hotel" versus a "motel". In regard to the view blockage issue, Mr. Loch stated that he had visited two decks in the area to determine their potential blockage. He noted that the project would result in partial but not significant blockage of views. Planning Manager Loch also confirmed that the project would result in some sun blockage but that the blockage could be more significant if the building were designed to be shorter but longer. He stated that he believed the project would not result in any significant adverse sun blockage. In closing, Planning Manager Loch stated that, in his opinion, the project did not warrant an EIS.

In regard to concerns about construction noise, Community Development Director Kilgore noted that no construction noise concerns had yet been received concerning the Travel Lodge Motel project.

City Attorney McLean informed Council that staff had pursued negotiations with Access Condominiums and Mr. Ulery. City Attorney McLean reported that he and Angela Harlow, attorney representing Access Condominiums, had come to an agreement regarding specific conditions for Council's adoption should the project proceed. He stated that Access Condominiums had stated that they would dismiss their SEPA appeal if Council agreed to adopt the conditions if the project were to proceed.

City Manager Olander distributed the conditions (Exhibit A) to Council.

In response to Councilmember Sherman's questioning, Community Development Director Kilgore noted that the proposed building could be 55 feet in height with the HVAC system extending an additional ten to twelve feet.

Building Official Pickard informed Council that the Building Code allowed six to ten percent coverage percentages for HVAC systems.

Planning Manager Loch confirmed that the height would be measured to roof level.

Community Development Director Kilgore stated that the project's construction timeline would be available at the site.

Planning Manager Loch confirmed that the applicant had agreed to work with the condominium residents in regard to the construction schedule.

In response to Councilmember Kaplan's question, Planning Manager Loch confirmed that screening would be placed a grade and the height of the trees would be limited to thirty feet so as to protect views.

At 9:52 p.m., Council paused for five minutes to review Exhibit A.

In response to Councilmember Sherman's question regarding Condition No. 2, Public Works Director Heydon explained that the developer would be responsible for maintaining the storm drainage system so that it operated as designed.

In regard to Condition No. 3, Public Works Director Heydon explained the traffic study process.

MOTION was made by Councilmember Sheckler, seconded by Councilmember Sherman, and passed unanimously to accept Exhibit A in principle and direct staff to return the draft ordinance regarding the ICUP incorporating these conditions for consideration by Council when the underlying application is considered.

In regard to Mr. Ulery's appeal, City Attorney McLean noted that the appellant's additional written comments had been received and submitted in the agenda packet. He reiterated the background and process of the hearing. City Attorney McLean announced that Attorney James Klauser was now representing Mr. Ulery.

Community Development Director Kilgore confirmed that future design and building reviews would address several concerns voiced during the hearing.

Mayor Thomasson questioned whether Mr. Ulery had made any effort to negotiate or mitigate a settlement during the last two weeks.

On behalf of Mr. Ulery, Mr. Klauser stated that the only negotiation would have revolved around the issue of building height. He stated that his client had been told that there was no chance to mitigate or change the height of the proposed building. Therefore, there had been no discussions with the developer or with the City. Mr. Klauser felt that staff's work was conclusional, yet the answers were to be determined later. He encouraged Council to put the project on hold until the planning process was complete and to obtain public involvement. He asked Council to require the EIS now and not ignore the process.

Mr. McLean confirmed that Mr. Ulery had indicated that height was a key issue.

MOTION was made by Councilmember Kaplan and seconded by Councilmember Sheckler to uphold the decision of the city's SEPA Official regarding issuance of a DNS and to direct staff to prepare the findings of fact consistent with the direction provided by Council.

Councilmember Kaplan noted that good faith had been demonstrated by the developer and the people to be impacted on the west side of the proposed project. He stated that past public meetings had dealt with landscaping and building heights in terms of the vision for the area. He stated his belief that the developer had gone to great lengths to meet the concerns of staff and the property's neighbors. He voiced his support for the motion.

At 10:29 p.m., **MOTION** was made by Councilmember Sheckler, seconded by Councilmember Towe, and passed unanimously to extend the meeting ten minutes.

Councilmember Sheckler voiced support for Councilmember Kaplan's comments. He thanked Access Condominium residents for their involvement.

Councilmember Sherman agreed with Mr. Klauser that the process was not the best nor the cleanest procedure possible. However, he stated that Council was doing it for a reason and that he felt that the reason was a good one. Councilmember Sherman noted that the Growth Management Act required the allowance for growth in the City. He also said that Pacific Highway South was the only major transportation corridor in the City. Although it was not an easy decision to make, given the options, Councilmember Sherman said that he was willing to support the motion as it would allow for growth in the specific area and preserve the character of the City.

Councilmember Towe noted that both appellants had raised serious issues and caused Council to consider their issues. Councilmember Towe felt that Mr. Ulery's appeal lacked expert testimony and detailed technical analysis of the issues. He recognized the difficulty and cost involved in challenging a project of this magnitude but felt that the testimony provided by staff and the developer had addressed the appeal's identified concerns.

At 10:39 p.m., **MOTION** was made by Mayor Thomasson, seconded by Councilmember Kaplan, and passed unanimously to extend the meeting ten minutes.

Councilmember Towe felt that the Soil Engineer and the Public Works Director had sufficiently analyzed and reviewed the surface water issue and had determined there were no significant adverse impacts that could not be mitigated. He felt that Exhibit A testified to the developer's willingness to address the surface water issue. Councilmember Towe felt that the issues of light and glare were addressed by the Planning Manager's testimony. He stated that the information regarding the distance of the surrounding buildings made him comfortable with staff's efforts to address the concerns raised by the appeal. Regarding the height issue, Councilmember Towe stated that he felt the issue had been researched. He noted that staff had visited the potential impacted sites to determine the extent of the view blockage and had worked with the developer to mitigate the affect of the height of the building through modulating roof design and maintaining the building height limit. He stated his belief that staff had researched and mitigated each identified concern and felt confident that further design would require additional measures to further mitigate any impacts. Therefore, he stated that he would support the motion.

Mayor Thomasson noted that the property was already zoned commercial. He stated that he would support the motion but felt that development should be buffered and transitioned with surrounding properties. As he felt that the proposed plan was too much for the property, he stated that he would not support the adoption of the interim conditional use permit. He also expressed concern with Council establishing a spot rezone that would be out of compliance with the Comprehensive Plan.

VOTE ON MOTION: Motion passed unanimously.

City Attorney McLean read the title of the proposed ordinance.

City Manager Olander announced that the second reading of the proposed ordinance would occur at the October 7, 1999 meeting.

City Attorney McLean reiterated that the subject was still a quasi-judicial issue.

NEXT MEETING DATE – Study Session, October 7, 1999

ADJOURNMENT

The meeting adjourned at 10:50 p.m.

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk