

PRELIMINARY
REGULAR MEETING OF DES MOINES CITY COUNCIL

MINUTES

October 10, 1996

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 Sherman.

ROLL CALL - Present: Mayor Scott Thomasson, Mayor Pro Tem Terry Brazil, Councilmembers Bruce Roberts, 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, Finance Director Jim Hathaway, Planning Manager Corbitt Loch, Assistant Planner Ron Pike, and Deputy City Clerk Angela Chaufy.

COMMENTS FROM THE PUBLIC

Victor Anderson, 27036 8th Avenue South

Mr. Anderson reminded Council that several lots in the Woodmont/Redondo area would have difficulty meeting the development standards of Des Moines. He requested that current King County building standards be adopted for these properties.

Pat Malara, 916 Woodmont Drive South

On behalf of several Woodmont/Redondo waterfront lot owners, Mr. Malara asked that current King County building standards be adopted for their lots. If other criterion were adopted, he noted that a house, destroyed by fire, could not be re-built to its previous standard.

Mike Berry, 28632 Redondo Beach Drive

Mr. Berry noted that several properties in his neighborhood were 30' wide. He noted that he had invested in his house and lot and was concerned about his options should the house be destroyed by fire. Mr. Berry urged Council to adopt current King County development standards for the area.

Sven Kolby, 27024 8th Avenue South

Mr. Kolby encouraged Council and staff to conduct another public meeting to explain the potential impacts of the zoning revisions. He also voiced concern with staff's recommendation to adopt "Park" zoning for the Woodmont Community Club beach area.

Gordon Rottlin, 26439 8th Avenue South

Mr. Rottlin felt that most residents in his neighborhood have been satisfied with King County and their building standards. He voiced concern over the building requirements that would be imposed on the area.

Susan Clark, 26516 8th Avenue South

As president of the Woodmont Community Club, Ms. Clark reiterated the comments of Mr. Kolby. In regard to the proposed "Park" zoning for the Woodmont Community Club beach area, Ms. Clark asked for clarification of the consequences of that designation.

Cathy Robertson, 26850 8th Avenue South

Ms. Robertson briefly told the history of her property. She voiced concern with potential developmental setback requirements.

BOARD & COMMITTEE REPORTS

Suburban Cities Association

Mayor Pro Tem Brazil noted that the City of Seattle will propose that an extra local gas tax be imposed within their boundaries in order to fund future road repair.

Councilmember Sherman noted that various cities caucused to discuss issues that Suburban Cities will take positions on in the upcoming legislature session. Issues receiving considerable support from the medium city group include encouraging the state to become more active in siting facilities of regional importance and voicing concern with increasing motel/hotel taxes to support the construction of a sport stadium.

Woodmont/Redondo Zoning

Councilmember Wasson commented that he felt it was a disservice to the people to conduct an annexation vote for an area prior to informing the voters of the zoning designation and its consequences.

PRESIDING OFFICER'S REPORT

Response to Des Moines News' Letter to the Editor

In response to a recent Des Moines News' editorial concerning "Mayor's Day for the Hungry", Mayor Thomasson clarified that he had never been informed nor asked to support the event.

ADMINISTRATION REPORTS

Written Report: Review of Nibble of Des Moines & Classic Yachts Boat Show

City Manager Olander noted that a written report regarding the Nibble of Des Moines & Classic Yachts Boat Show had been included in Council's packet material.

King County Council Economic Development & Regional Government Committee Meeting

City Manager Olander announced that he and the City Attorney had attended a County Council Committee meeting regarding the Woodmont/Redondo pre-annexation agreement. The committee unanimously passed the agreement on to the full council. The King County Council should decide the issue within the next week.

Association of Government Accountants Certification

City Manager Olander announced that Finance Director Jim Hathaway has received certification as a Certified Government Financial Manager from the Association of Government Accountants.

CONSENT CALENDAR was read by Deputy City Clerk Chaufy.

1. Motion is to approve the minutes of September 26, 1996.
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 #53391 through #53561 in the total amount of \$401,291.95

Payroll fund transfers in the total amount of \$168,978.98

3. ~~Motion is to approve the Interlocal Agreement with King County to promote the use of recycled construction products, substantially in the form as attached, and to authorize the City Manager to sign such agreement.~~

Councilmember Sheckler noted a minor correction to Page 3 of the September 26, 1996 minutes.

MOTION was made by Councilmember Sheckler and seconded by Mayor Thomasson to approve the consent calendar.

Item #3 was removed by Mayor Thomasson.

VOTE ON MOTION: Motion passed unanimously.

NEW BUSINESS

Interlocal Agreement with King County to Promote the Use of Recycled Construction Products

Mayor Thomasson voiced concern with the conditions imposed by King County in the agreement. In particular, he question whether the current police station construction had complied with the Minority and Women's Business Enterprises condition.

City Manager Olander noted that the city would receive under \$2,500 from the County for compliance; therefore, the condition would not apply.

City Attorney McLean also stated that the purchases of recycled construction products were made from the County's list of MWBE suppliers.

MOTION was made by Councilmember Towe and seconded by Councilmember Sherman to approve the interlocal agreement with King County to promote the use of recycled construction products.

MOTION was made by Mayor Thomasson to remove Item A3 on Page 2 of the proposed interlocal agreement. Motion died for lack of a second.

VOTE ON MOTION: Motion passed, 5 - 2, with Mayor Thomasson and Councilmember Wasson opposed.

PUBLIC HEARING

Draft Resolution No. 96-198 Adoption of 1997-2002 Capital Improvement Program

City Manager Olander introduced the subject.

Finance Director Hathaway reviewed the funding sources, project listing, and arterial maintenance program with Council. He noted that the Woodmont/Redondo area would be included in the next CIP as information regarding the priority of arterial projects was currently being gathered. Mr. Hathaway highlighted the following arterial street projects:

- Installation of traffic signal at South 240th Street/16th Avenue South,
- Closed drainage system at 10th Avenue South/South 230th Street,
- Improvements to Pacific Highway South between South 216th Street and Kent-Des Moines Road,
- Citywide neighborhood pedestrian safety and driver compliance program,
- Curb, gutter, and sidewalk improvements to 16th Avenue South between South 260th and South 272nd (King County funded project),
- Improvements to South 216th Street between Marine View Drive and Wesley Homes.
- Improvements to Des Moines Memorial Drive between South 208th Street and South 216th Street.

Mayor Thomasson suggested that the 16th Avenue South project be expanded to provide continuous sidewalk from South 250th Street to South 272nd Street.

City Manager Olander clarified that if the 6th Avenue South residents formed an LID, the city would probably contribute engineering services only. This project would be included in the project listing.

City Attorney McLean read the rules for conducting a public hearing.

SPEAKER

George Minnich, 22701 19th Avenue South

Mr. Minnich requested that the sidewalk area by Mt. Rainier High School be completed.

After calling for additional speakers, Mayor Thomasson closed the public testimony portion of the hearing and announced that the CIP would be discussed by Council at a later meeting.

CONTINUED PUBLIC HEARING

1. Draft Ordinance No. 96-158 Amendment of the Greater Des Moines Comprehensive Plan [CP96-039]
2. Amendment of Greater Des Moines Comprehensive Plan - Redondo Land Use Map [CP96-039(A)]
3. Amendment of Greater Des Moines Comprehensive Plan - Property-Specific Amendments [CP-039(B)(C)(D)(E)]

4. Draft Ordinance No. 96-154 Adoption of City Zoning for the Woodmont/Redondo Annexation Area [RZ96-029]

5. Amendment of Greater Des Moines Comprehensive Plan - Text Amendments [CP-039(F)(G)]

Planning Manager Loch displayed the Central Redondo existing land use map. He described the comparable Des Moines' zoning designation for the multifamily properties. He then displayed a map of staff's recommended zoning for the area.

Community Development Director Kilgore confirmed that the suggested zoning approximates the current King County zoning.

Council reviewed each block of the Central Redondo area map and directed staff concerning their zoning preferences.

At 9:14 p.m., Mayor Thomasson declared a ten minute break. He also announced that public testimony would be received at the next meeting concerning this subject.

In regard to the development of undersized parcels, Community Development Director Kilgore noted that 213 of the properties have been developed while 26 lots are undeveloped.

Planning Manager Loch compared the setback requirements and building height restrictions of Des Moines and current King County standards.

Community Development Director Kilgore noted that the variance procedure has been utilized to settle sideyard setback difficulties in the North Hill area. Upon questioning, she described the community notification process for the hearing.

Mayor Thomasson questioned whether lot averaging could be applied to the substandard parcels.

Councilmember Sherman suggested that any ordinance developed should only apply to existing substandard lots.

MOTION was made by Councilmember Towe and seconded by Councilmember Brazil to direct staff to prepare a draft ordinance so single family construction on existing substandard lots within the Woodmont/Redondo annexation area can be authorized if in conformance with the following development standards: 1) minimum side yard setback shall be 5 feet; 2) minimum rear yard setback shall be 5 feet; 3) maximum building height shall be 35 height; 4) maximum lot coverage shall be 55 percent in the RS-9,600 zone and 70 percent in the RS-7,200 zone; and 5) minimum front yard setback of 10 feet.

Mayor Thomasson stated that he preferred to develop a variance procedure for the lots. He felt that building height was a major issue.

Councilmember Wasson felt that giving such rights to substandard lot owners was not equitable. He encouraged Council to consider all lots in the area.

Councilmember Towe felt that the variance process was a frustrating and time-consuming process. He noted that current development standards did not seem to be a problem. He felt the motion would be equitable.

MOTION was made by Mayor Thomasson and seconded by Councilmember Roberts to table Item 19 to the next meeting. Motion passed, 6 - 1, with Councilmember Towe opposed.

MOTION was made by Mayor Thomasson, seconded by Councilmember Roberts, and passed unanimously to continue the public hearing to the October 17, 1996 meeting.

NEW BUSINESS

Appeal of Hearing Examiner Decision - Garry Wamsley Denial of Variance Request for Rear Yard Setback - File #HV96-023

Mayor Thomasson introduced the subject and read the rules for conducting an appeal.

City Attorney McLean questioned Council whether there had been any matters under the Appearance of Fairness Doctrine. There were none.

Community Development Director Kilgore noted that the appellant was appealing the denial of a variance request.

City Attorney McLean swore in Matthew Sweeney, legal counsel for the appellant.

APPELLANT

Matthew Sweeney, 5929 Westgate Boulevard, Suite D, Tacoma

On behalf of his client, Garry Wamsley, Mr. Sweeney asked Council to grant Mr. Wamsley's request to allow construction of second and third level decks in the air space of the setback. He urged Council to consider the original staff report recommending approval. He felt that the Hearing Examiner contradicted herself by acknowledging that variances had been approved in surrounding areas and yet granting of Mr. Wamsley's variance would constitute a special privilege. He noted that the slope of the property created an irregular lot. He felt that there would be no material detriment to the public as supported by the fact that Portsider tenants had refrained from protesting the variance. In closing, Mr. Sweeney felt that the Hearing Examiner was literal and strict in her interpretation of the code. He urged Council to adopt staff's original report and recommendation.

OPPONENT

Ron Pike, Assistant Planner for City of Des Moines

Mr. Pike explained the Hearing Examiner's criteria and procedural requirements for reviewing a variance as provided by the DMMC. He noted that the code stressed the importance of applying a strict interpretation. Mr. Pike informed Council that the DMMC allowed for an 18 inch intrusion into the setback areas for the construction of fireplace structures, uncovered porches, planting boxes, and bay windows.

MOTION was made by Councilmember Wasson and seconded by Councilmember Roberts to extend the meeting to 10:45 p.m. Motion passed, 6 - 1, with Mayor Pro Tem Brazil opposed.

Upon questioning, Community Development Director Kilgore confirmed that upon review of the Hearing Examiner's rationale and DMMC, staff now supports the Hearing Examiner's decision.

REBUTTAL

Matthew Sweeney, 5929 Westgate Boulevard, Suite D, Tacoma

Mr. Sweeney felt that new information had been submitted to persuade staff to change their minds. He asked Council to grant the variance request for the following reasons:

1. Original staff report recommended approval,
2. Variance was minimal request with minimal impacts, and
3. Variance request complied with overall theme of the City.

City McLean questioned whether Mr. Sweeney wished to object to staff's comments. Mr. Sweeney declined.

Mayor Thomasson closed the hearing.

MOTION was made by Councilmember Wasson and seconded by Councilmember Towe to reverse the hearing examiner's decision concerning File No. HV96-023.

Mayor Thomasson spoke against the motion as the variance was not required to construct a unit.

City Attorney McLean explained the procedure for overturning a decision of the hearing examiner. He defined substantial evidence and substantial error.

Councilmember Towe felt that the hearing Examiner had erred by rejecting staff's original recommendation, by failing to recognize special topographical conditions of the lot, and by determining that a special privilege would be granted if the variance request was approved.

MOTION was made by Councilmember Wasson and seconded by Mayor Thomasson to extend the meeting to 11:00 p.m. Motion passed, 6 - 1, with Mayor Pro Tem Brazil opposed.

Mayor Thomasson disagreed with the belief that topographical conditions warranted the approval of the variance as the owner had built the foundation up to every setback line.

VOTE ON MOTION: Motion failed, 3 - 4, with Mayor Thomasson, Councilmembers Roberts, Sheckler, and Sherman opposed.

MOTION was made by Mayor Thomasson and seconded by Councilmember Sherman to affirm the Hearing Examiner's decision and adopt the findings of fact. Motion passed, 4 - 3, with Mayor Pro Tem Brazil, Councilmembers Towe and Wasson opposed.

NEXT MEETING DATE - Regular Meeting October 24, 1996

ADJOURNMENT - The meeting adjourned at 10:48 p.m.

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk