

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

July 19, 2007

CALL TO ORDER - The regular meeting of the Des Moines City Council was called to order at 7:33 p.m. by Mayor Sheckler at the City of Des Moines Council Chambers, 21630 11th Avenue South, Des Moines, WA.

ALLEGIANCE - The pledge was lead by Mayor Bob Sheckler.

ROLL CALL - Present: Mayor Bob Sheckler, Councilmembers Ed Pina, Carmen Scott, Dan Sherman, and Susan White. Also attending were City Manager Tony Piasecki, City Attorney Pat Bosmans, and City Council Clerk Tina McVey. Mayor ProTem Scott Thomasson and Councilmember Dave Kaplan were unable to attend and motion to excuse was approved unanimously by the remaining members of the City Council.

BOARD & COMMITTEE REPORTS & COUNCILMEMBER COMMENTS

Councilmember Scott: Attended the Farmers' Market, the Trash to Treasures sale at the Activity Center, and the Boat and Car Show. She stated it was a great time and our citizens really seemed to enjoy these festivities.

Councilmember White: Welcomed her family to the Council meeting as they were in attendance. The Executive Session regarding the Southwest King County Development Initiative was well attended, with the Seattle Times being represented by 5 individuals who were interested in Des Moines' participation with the Southwest King County organization. It looks as if it's moving forward at this time. She also attended an event at the Cascadia Institute meeting regarding passenger ferry service, which Mayor Sheckler also attended. She would be going to Bremerton on the following Tuesday to meet with the Regional Advisor on passenger ferry service. She then welcomed the members of the Senior Services Committee who were present.

PRESIDING OFFICER'S REPORT

Mayor Sheckler stated he'd received a phone call from Senator Patty Murray in regard to the funding for the Beach Trail. She had secured \$500,000 for the completion of the Beach Trail and wanted to personally inform the Mayor of this accomplishment. He then thanked Senator Murray for her support and work done on the behalf of the City of Des Moines. He stated this was an outcome of a trip to Washington taken by himself and Councilmembers Scott and Pina to request money for this project.

Mayor Sheckler then introduced Carole Davis, regional director of the Daughters of the American Revolution to make a presentation. Ms. Davis summarized for the Council the four major community events the DAR had performed in the City of Des Moines this year; (1) Conservation of natural resources by helping to clean up the park areas, (2) Good Citizen Citizenship Awards, (3) supported Library for Literacy programs, and (4) the American Heritage program. To further discuss the American Heritage program and results of their recent contest, Ms. Davis introduced Ms. Margaret Young, Chairperson for American Heritage.

Ms. Young explained that the National Society of the DAR had a contest in order to find one person who had done outstanding work in preserving something historic. They nominated Councilmember Susan White for her dedication and hard work in regard to the Beach Park, including getting the Park on

the National Historic Registry. The National Society of the DAR named Councilmember White their American Heritage winner, with Ms. Davis and Ms. Young presenting her with the medal.

ADMINISTRATIVE REPORTS

City Manager Piasecki signed the contract today to enable the contractor for the Saltwater State Bridge project to begin.

CONSENT CALENDAR was read by City Council Clerk Tina McVey.

1. Motion is to approve the special minutes of April 28, the regular minutes of May 24, the special and regular minutes of May 31, and the regular minutes of June 7, 2007.
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 42.24.090, 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 checks #109739 through #11044 & electronic fund transfers in the total amount of \$1,761,424.41

Payroll fund transfers in the total amount of \$343,161.50

3. Motion is to approve the written approval to extend Agreement for Professional Services with Prosecutor Susan Mahoney and to direct the City Manager to execute said agreement substantially in the form as submitted.
4. Motion is to remand to Municipal Facilities Committee the following item: Review of the City's Park-In-Lieu Fee Process.

➤ Motion was made by Councilmember Pina and seconded by Councilmember Sherman, to approve the Consent Calendar. Motion passed unanimously.

PUBLIC HEARING

Amending Business Park Zoning

- A. Draft Ordinance No. 07-134-A Permitted Uses in Business Park Zone - 1st Reading
SUMMARY: The purpose of this item is to review the proposed code amendments to the Business Park Zone - Permitted Uses. Council will hear testimony from the public and consider the proposed ordinance.
Staff Presentation: Planning, Building & Public Works Director
- B. Draft Ordinance No. 07-134-B Recreation Requirements in Business Park Zone - 1st Reading

Mayor Sheckler inquired as to whether anyone had signed up to speak regarding the subject of the hearing and there were none. According to the rules, the Mayor then asked verbally three times if there was anyone wishing to speak and there was no response to each query. The Mayor then introduced Planning, Building, and Public Works Director, Grant Fredricks to present the requested amendments to the Council. Director Fredricks stated the first ordinance was to codify the agreement that the Council had reached with the Port of Seattle. Staff had been working since the first agreement was executed in 2005 on a series of planning activities related to this project. In doing the research for the second development agreement, they had come to several conclusions:

- 1) Whereas the first agreement was executed, it was thought by Staff that it could trump or override the zoning code. It is now Staff's opinion that the State does not allow for that to happen.
- 2) Based upon State law and several recent court cases, our requirements need to be amended as proposed to eliminate the automatic set-aside & to require the developer to identify the demand on the park system created by the development and to provide mitigation for that impact.

Mayor Sheckler then asked three times to see if there was anyone who wished to speak according to the rules. No one responded and the Mayor asked for comments and questions from the Council.

Councilmember Sherman asked for verification that this was indeed the codification of the first development agreement and that nothing else had been added. Director Fredricks stated that it was.

Councilmember White asked if the next step would be to start working with developers who would then report back to the Council with their development proposals. Director Fredricks stated that it was and that the agreement stated that the Council would consider any specific proposals at a Public Hearing at a specific time. This did not obligate the Council to accept, but just to have the Public Hearing at a specific time.

Councilmember Scott asked for clarification regarding the North and South Sub-area. Director Fredricks stated the North Sub-area was north of 216th and the South Sub-area was south of 216th. She then asked clarification of the uses listed as she wondered if the ones that did not seem to be the best producers were appropriate to be on the lists. Director Fredricks stated that those uses which would not be good producers would probably fall off the lists during the development phase, but that staff was trying to provide the biggest box possible per the Council's previously stated wishes.

Councilmember Pina stated it appeared that the list had been expanded to include the types of businesses requested by the Council and it seemed that the Council's wishes had been conveyed. Director Fredricks stated that there had been no changes made to this as it is the same agreement that Council had agreed to previously, but staff had indeed communicated Council's wishes through the resolution and it is now a matter of record.

Mayor Sheckler then asked for clarification as to whether Director Fredricks would be making a separate presentation for Part B. Director Fredricks stated the presentation covered both Part A and Part B. Mayor Sheckler then informed the Council that if they had questions of Part B, they should be asking those questions at this time as well.

Councilmember Sherman expressed concerns regarding repealing the current language in the Business Park Zone regarding the set-aside requirements, which seems to be contrary to that in state statutes. He was unsure that the Council should repeal the language. City Attorney Pat Bosmans stated the current language goes against the current law and needs to be amended in order to conform. She further stated that the ordinance allows for the burden to be put back onto the applicant to show whether there will or will not be an impact and for the mitigation of the impact.

Councilmember Scott stated her concern was that she did not want the applicant to be able to state what mitigation measures they will be taking as opposed to the Council making the decisions as to what is appropriate. Ms. Bosmans stated the applicant would be required to provide mitigation plans and that the Council would approve what would be considered appropriate measures. Councilmember Scott she wanted the language to be clearer so that it is understood there will be a communication with the applicant and not that the applicant will decide what measures are appropriate.

Councilmember Sherman asked what would the types of employment and number of jobs associated with this project be and what would be the impact on our park system. Director Fredricks stated that if the greater use percentage was office related, there would probably be around 21,000 jobs created. If the greater use percentage was logistics related, the number of jobs would be closer to 12,000. However, the use percentage amount of retail on the site would cause those numbers to change. Councilmember Sherman and Councilmember Scott both expressed their great concern regarding the impact of the added workers, customers to the businesses, and families of the workers on our parks and recreation system. After much discussion between the Councilmembers and Staff, Councilmembers stated that the City needed to have mitigation requirements and approved measures in place as a basic structured framework sooner rather than later.

Mayor Sheckler then asked for further comments from the Council and having none, closed the Public Hearing. City Manager Piasecki stated that each part would have to be voted on individually and not in one vote. He also informed the Council that Part A would have to be sent to a 2nd hearing due to SEPA review, which is ongoing right now. He suggested Part A be moved to a 2nd hearing until the SEPA review is done.

- Councilmember Pina made the motion to remand Draft Ordinance No. 07-134-A to a 2nd hearing with Councilmember Scott seconding. Motion passed unanimously.
- Councilmember White made the motion to suspend Rule 26B with Councilmember Scott seconding. Motion Passed 3-1 with Councilmember Sherman voting nay.
- Mayor Sheckler made the motion to adopt Draft Ordinance No. 07-134-B, which was seconded by Councilmember Pina.
- Before the vote could be taken, Councilmember Sherman made the motion that on page 2 of 3 in the ordinance should be amended to say “and the recreational needs of the substantial workforce and customers anticipated with this project” with Councilmember Scott seconding. Motion passed 3-1 with Councilmember Pina voting nay.
- In regard to the main motion already made by Mayor Sheckler and seconded by Councilmember Pina, the motion passed 3-1 with Councilmember Sherman voting nay.

At 8:45pm, Mayor Sheckler declared a 10 minute break.

PUBLIC HEARING

Amending Pacific Ridge Zone:

1. Draft Ordinance No. 07-141 Amending DMMC 18.44.060 Parking Requirements - 1st Reading
2. Draft Ordinance No. 07-142 Amending DMMC 18.31.090 Height Requirements - 1st Reading
3. Draft Ordinance No. 07-143 Amending DMMC 18.31.030 Mixed Use Requirements - 1st Reading

Councilmember White asked to make it known that these ordinances had been brought to and discussed by the Committee for Economic Development prior to being brought before the Council during this public hearing. Mayor Sheckler acknowledged her comment and then opened the public hearing by letting Council know that these ordinances would be combined into one presentation and that any questions or comments regarding any of the ordinances would need to be voiced after the one presentation.

Mayor Sheckler informed the Council that there was one speaker for the Public Hearing, Mr. Kim Nakamura. The Mayor asked Mr. Nakamura to come to the podium in order to begin this portion of the hearing. Mayor Sheckler then asked Mr. Nakamura if he understood the rules governing speaking at a Public Hearing and Mr. Nakamura stated he did. The Mayor then stated he would waive the reading of the rules as the speaker was familiar with the rules.

Mayor Sheckler asked that Mr. Nakamura introduce himself, providing his name and address for the record, and to clarify if he would be speaking as a proponent before providing the Council with his comments. Mr. Nakamura stated his name and address for the record and acknowledged that he would be speaking as a proponent for the amendment. The floor was then turned over to Director Fredricks to make the presentation.

Director Fredricks provided the background of the project, with the adopting of the Pacific Ridge code 7 years ago. Staff has been looking very carefully at the code over the past two years, taking the information garnered by the work done by Ravenhurst Corporation as consultants which recommended what the City could do to accelerate its economic development. In March of this year, Staff invited a number of developers to share with the Council their ideas regarding the types of development that it was felt would be appropriate for the area. Mr. Nakamura was one of those developers who shared his specific experiences with developing in the Pacific Northwest. After that developer's forum, Staff concentrated on five areas which they will be bringing before Council in the form of ordinances which amend the code. Tonight Staff will be introducing the first three for Council consideration and in September will be introducing the other two. The three ordinances tonight are in regard to parking requirements, building height restrictions, and mixed use requirements, the two in September will be in regard to increasing the numbers of floors permitted to be built from lumber and private recreation requirements for things such as balconies. Director Fredericks stated each ordinance was intended to provide a more inviting, more market friendly, more builder friendly approach to development in the Pacific Ridge area. At this time, Director Fredricks stated Mr. Jason Sullivan of the Development Services Division was available to answer questions the Council might have and returned the floor to Mayor Sheckler who then invited Mr. Nakamura to speak.

Mr. Nakamura provided a summary of his background in construction, his history with the City of Des Moines, and his experience in working with various municipalities in the Pacific Northwest to develop the types of senior housing communities that the City is now considering for the Pacific Ridge zone. He stated his company, Rushforth Construction Company, had 56 years of experience in development. He further stated his company had been involved in

building 35-40 retirement communities and that he had learned from working with local neighboring municipalities what worked and what did not work in these proposed developments. In regard to the specific parking amendment ordinance, Mr. Nakamura stated his experience with other municipalities was that if the municipality was willing to amend the requirements, the development was usually successful, but if the area to be developed had stringent parking requirements, development did not occur and the project died. Mr. Nakamura stated as far as the height and mixed use ordinances, it was his opinion that the market should dictate what is done and where it is done, and that it should be market driven to make the development occur quickly. Mr. Nakamura then returned the podium to the Mayor and to Mr. Sullivan.

The Mayor verbally asked three times if there were any others in the audience who wished to speak to which there was no response. Mayor Sheckler asked Staff if there were any misstatements of fact which needed to be addressed. City Manager Piasecki said there was not. Mayor Sheckler then opened the discussion to the Council for questions and/or comments.

Councilmember White thanked Mr. Nakamura for his comments and stated she was pleased with the interest in developing the Pacific Ridge area. She then asked for clarification of whether the parking requirements being discussed were specifically in regard to low income, senior citizen parking. Mr. Sullivan introduced himself as a planner for the City and stated that yes, it was specifically for low income, senior citizen parking requirements.

Councilmember Sherman expressed his concern regarding the differentiation between low income senior citizen community and non-low income senior citizen communities as he felt it was being discriminatory. Mr. Sullivan referred to several studies and Staff's research which stated the need for parking by those living in low income senior citizen communities was actually much smaller than that provided in our current code. Councilmember Sherman then asked if this was approved and became code, would this then be permanent and the owner/occupants locked into the reduced parking allowances. Mr. Sullivan stated it would be permanent unless there was an application for a change of use and that it could be proven in that change of use process that they would need to have the reduced requirement changed. Councilmember Sherman asked for clarification regarding common areas, such as a dining room, and parking for staff which would work in those areas. Mr. Sullivan stated those are commercial structures as the community members pay for the meals in those common areas and as a commercial structure and use, it would have different parking requirements. He further stated the parking reduction was based on all the analytical data Staff had accumulated and that it was specific to the residential parking only. Councilmember Sherman expressed his grave concerns regarding the reduction in parking being requested in the ordinance. He then stated he had no questions regarding the other two ordinances.

Councilmember Scott expressed her concerns regarding the same issues as expressed by Councilmember Sherman. She was concerned that if the parking requirement was reduced to an overall .5 per unit, there were not adequate services within walking distance and that the commercial percentage of 15% would not be high enough. Mr. Sullivan stated the 15% was specific to residential zoning and not commercial. He further stated the code allowed for these types of businesses and also that most senior housing communities, such as SHAG (Senior Housing Assistance Group), have retail businesses in the community itself. He stated that one of the other reasons why Staff was recommending the parking requirement reduction is because Pacific Ridge is a heavy transportation conduit for mass transit and making services not available inside the community accessible without the need for a car. Director Fredricks also stated that,

as Mr. Nakamura had just reminded him, heavy use of shuttles as a method of transportation to services and recreation are an integral part of the senior housing community.

Councilmember Scott asked it was being limited to 15% and Mr. Sullivan stated that to increase the percentage, the Pacific Ridge EIS would have to be reopened, there would need to be another consultant come in who would reevaluate everything and undo everything that was achieved in 2002, which would be expensive and time consuming. Councilmember Scott then asked if the current code would not work with what the current developer needed and Mr. Sullivan responded that it would, if the five ordinances were passed which would amend the Pacific Ridge zone requirements for these specific areas of concentration. City Manager Piasecki stated that if the EIS was reopened, the City would lose the current development project and that it would take another year and a half before an ordinance could be brought back before the Council for approval.

Councilmember Pina also expressed that he had the same concerns as the other two Councilmembers and that it was no guarantee that a shuttle would always be there when needed. He stated he agreed the current requirement of 2 parking spaces was too high for the area, but would prefer to see it be reduced to a .75 requirement as opposed to a .5 requirement.

Councilmember Sherman asked Mr. Nakamura to explain why he preferred a 25% mixed use ratio rather than a 15%, especially since Staff has stated to change this percentage would be detrimental time-wise. Mr. Nakamura stated the fewer controls on a development, the more creativity and flexibility is built into the development which allows the developer to market quickly. He stated it was his opinion that you needed both residential and commercial in the development but that it doesn't mean that the program needed to be rethought, just that there needs to be as much flexibility and fewer controls in order to allow the developer to move quickly. Councilmember Sherman asked if, for Mr. Nakamura's proposed development, it was too late if Council wanted to change the percentage for the entire zone? Mr. Nakamura stated that time was definitely money, but that the desire would be to provide the developer with as much flexibility as the code currently can provide.

Councilmember Sherman next asked Mr. Nakamura if the changes in building height restrictions would not create narrow buildings without any views and if those were of higher value to be in the higher buildings as the higher floors would have those views. Mr. Nakamura stated that the development's goal would be to not have buildings blocking the views of each other, but instead would create view corridors. Taller buildings allow for larger view corridors.

After much further discussion between Councilmembers and Staff regarding the parking requirement amendment, Mayor Sheckler commented that he was a member of the council which set up the Pacific Ridge zoning codes and that it used SEPA as a tool to attract developers. He stated that this subject has been discussed numerous times in committees over the years since and that to ask for changes to the EIS now would kill this project as it would be another year and a half before an ordinance could be put together to come before the Council.

Councilmember Scott stated that she would like to approve all three of the ordinances, but she would have preferred that Staff had not taken this down to .5. She then asked if Mr. Nakamura had any comments in regard to this subject.

Mr. Nakamura stated he understood the Council's concerns, but if you have not lived or been involved in senior housing communities, it is difficult to understand how they work. He stated he's been building these types of communities for 14 years and he sees that the .5 works every day. He stated that the market drives what makes a project successful and the market does not dictate the need for a higher percentage of parking for low income senior housing communities. He also stated that while Council was speaking from the point of view of those who are able to live independently, those who live in senior housing communities are not able to live independently and do not have the number of vehicles that someone living independently would.

Councilmember Sherman asked if it people who bought condos weren't also expecting to buy an assigned parking spot with their purchase. Mr. Nakamura stated that it has been his company's experience that in these types of communities, the .5 worked because not everyone would want an assigned parking space.

At this time, Mayor Sheckler closed the Public Hearing.

- Councilmember Sherman made the motion to pass Draft Ordinance No. 07-143 to a 2nd reading on the next available date with Councilmember Scott seconding. Motion passed 4-0.
- Councilmember Sherman made the motion to pass Draft Ordinance No. 07-142 to a 2nd reading on the next available date with Councilmember Scott seconding. Motion passed 4-0.
- Councilmember Pina made the motion to pass Draft Ordinance No. 07-141 to a 2nd reading on the next available date, amending the language to provide .8 parking spaces per unit, rather than .5. There was no second and the motion failed for lack of second.
- Councilmember Sherman made the motion to pass Draft Ordinance No. 07-141 to a 2nd reading on the next available date, amending the language to provide 1.0 parking spaces per unit as opposed to .5 with Councilmember Scott seconding. Motion failed 2-3, with Mayor Sheckler and Councilmembers White and Pina voting nay.

Councilmember White stating this had been discussed in committee many times and that she had concerns that the rest of the Council was not wanting to approve these ordinance recommendations and were instead passing them on to a 2nd reading as she felt the delays put the project at risk. She further stated that she trusted the staff and the data that had been presented and would not approve the change from .5 to 1.

- Councilmember Pina made the motion to pass Draft Ordinance No. 07-141 to a 2nd reading on the next available date, with no numerical amount assessed in the amendment, with Councilmember White seconding. Motion passed 3-1 with Councilmember Sherman voting nay.
- Councilmember Pina made the motion to adjourn with Councilmember Scott seconding. Motion passed 3-1 with Councilmember Sherman voting nay.

NEXT MEETING DATE - Regular Council Session, July 26th, 2007.

ADJOURNMENT

At 10:10 p.m., the meeting adjourned.

Respectfully submitted,

Tina R McVey
Permit Technician II