REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES November 16, 2006

The regular meeting of the Des Moines City Council was called to order at 6:35 p.m. by Mayor Sheckler in the Council Chambers, 21630 11th Avenue South, #B.

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, Dan Sherman and Susan White (left at 10:05 p.m.). Also in attendance were City Manager Tony Piasecki, City Attorney Linda Marousek, Court Administer Jennefer Henson, Planning, Building, and Public Works Director Grant Fredricks, Finance Director Paula Henderson, and Deputy City Clerk Angela Chaufty.

CORRESPONDENCE

Correspondence from King County Councilmember Julia Patterson

City Manager Piasecki confirmed that the correspondence from King County Councilmember Julia Patterson regarding a request for funding support for the Public Health Committee had been distributed to Council.

COMMENTS FROM THE PUBLIC

Barbara McMichael, 22810 Thunderbird Drive

Ms. McMichael asked Council to allocate one dollar per capita for an Arts Commission fund. She cited a library sculpture, a marina wall mural, concerts, art festivals, and theater as examples of projects that could be developed and funded through the Arts Commission.

BOARD & COMMITTEE REPORTS AND COUNCILMEMBER COMMENTS

Volunteer Service

Councilmember Scott stated that Ms. McMichael was a representative of many active volunteers who give to the community. She agreed that art added value to a community.

Suburban Cities Association

Councilmember White announced that her term on the Board of Directors would expire this year. She encouraged the other Councilmembers to participate on the Board if they were interested.

Assistance for Local Businesses

Councilmember White reported that local businesses were having a hard time surviving and needed help. She said that several other cities have an economic development staff person to support businesses.

Suburban Cities Association

Councilmember Sherman noted that he had attended the Suburban Cities Association meeting with Councilmembers Pina and White and City Manager Piasecki. The Association's budget had passed unanimously. Councilmember Sherman reported that Des Moines was the only city to oppose the selling of access to government.

City Attorney's Separation from Service

Councilmember Sherman announced that City Attorney Marousek was separating from service. She would be missed.

Environmental Committee

Mayor Pro Tem Thomasson announced that the committee had reviewed the proposed sensitive area ordinance. The public hearing for the draft ordinance was scheduled for January.

Proposed Arts Commission

Mayor Pro Tem Thomasson clarified that Council had not yet created an Arts Commission. Staff had been directed to prepare a draft ordinance regarding a Commission but Council had not yet taken a vote on the matter.

PRESIDING OFFICER'S REPORT

City Attorney's Separation from Service

In appreciation for her service to the City, Mayor Sheckler presented City Attorney Marousek with a plaque and a photo of the Des Moines Marina, taken by Councilmember Scott.

City Attorney Marousek thanked the community for giving her the opportunity to serve.

ADMINISTRATION REPORTS

Des Moines Creek Business Park Draft EIS

City Manager Piasecki announced that the Des Moines Creek Business Park Draft EIS would be released November 17, 2006 and the comment period would expire December 18, 2006.

Mayor Pro Tem Thomasson noted that the subject was a quasi-judicial matter.

Blueberry Lane PUD

City Manager Piasecki asked Council to submit their questions regarding the PUD to Planning, Building, and Public Works Director Fredricks as soon as possible so that staff's responses could be included in the November 30, 2006 agenda packet.

AWC Workers' Compensation Group Retro Program – Presentation of Refund Checks for 2004 and 2005

City Manager Piasecki introduced Paul Chasco, Assistant Director of the Association of Washington Cities.

Mr. Chasco presented the City with the 2004 and 2005 refund checks totaling $26,669 resulting from the City's participation in the AWC Workers' Compensation Group Retro Program. He noted that hearing conservation programs would be the program's focus next year.

CONSENT CALENDAR was read by Deputy City Clerk Chaufty.

1. Motion is to approve the regular minutes of October 26, 2006.
2. Motion is to approve the Consent Judgment & Decree of Appropriation in King County Superior Court Cause No. 06-2-26986-1 KNT, and authorize the City Attorney to approve said Judgment and Decree and present it to the Court, for approval and entry, substantially in the form as submitted.

3. Motion is to approve the Interagency Agreement between The Administrative Office of the Courts and the City of Des Moines for Juror Compensation Pilot Program and to authorize the City Manager to sign the agreement substantially in the form as submitted.

~~4. Draft Ordinance No. 06-207 - Title: An Ordinance of the City of Des Moines, Washington relating to determination of and expenditure of street vacation compensation fees, and amending DMMC 12.12.020, DMMC 12.12.050, and 12.12.070 in compliance with state law.~~

~~TWO MOTIONS: First motion is to suspend Council Rule 26(b). Second motion is to approve Draft Ordinance No. 06-207.~~

~~5. Draft Resolution No. 06-250 – Title: A Resolution of the City Council of the City of Des Moines, Washington accepting findings that an emergency existed on November 6, 2006, which justified the City's entering into emergency contracts to evaluate and mitigate the effects of the fifty-year rain event.~~

~~MOTION is to approve Draft Resolution No. 06-250.~~

Mayor Pro Tem Thomasson removed Item Nos. 4 and 5.

MOTION was made by Councilmember Kaplan, seconded by Mayor Pro Tem Thomasson, and passed unanimously to approve the consent calendar as amended.

REMOVED CONSENT CALENDAR ITEMS

Draft Ordinance No. 06-207 - Street Vacation Revenue, Amendment to DMMC 12.12.070

Mayor Pro Tem Thomasson said that Council could choose to be more restrictive or directive than State law. He felt that the agenda packet did not adequately state Council's options. Mayor Pro Tem Thomasson said that the draft ordinance should not be passed until Council discussed the policy issues involved. He also said that Sections 1.1 and 1.2 of the draft ordinance were contradictory.

Councilmember Scott voiced concern with the method for determining the value of the property. She felt that the method that provided the most accurate true market value should be used. She also said that the City should not give up any waterfront access.

Due to the policy issues yet to be discussed, Councilmember Kaplan proposed that the draft ordinance be set aside for future discussion.

City Attorney Marousek explained that the Port of Seattle's second development agreement would be presented to Council within the next six months. As the City's current code was not in compliance with state law, the draft ordinance sought to bring the City into compliance.

Councilmember Pina voiced concern that Mayor Pro Tem Thomasson's recommendations might place restrictions on future Councils. He preferred to keep options open.

Mayor Pro Tem Thomasson said that, without explicit direction, administration might follow the direction of the ordinance only and not ask Council where the money should be allocated. He recommended that the ordinance state that the money should be allocated to transportation unless otherwise directed by Council.

Councilmember Pina agreed with Mayor Pro Tem Thomasson's suggestion.

Mayor Pro Tem Thomasson said that the language in Section 1.1 and 1.2 on Page 2 of the draft ordinance could be better written to eliminate any questions.

Councilmember Scott noted that the real value of the property might be based upon the new use of the property.

City Attorney Marousek said that staff was working with the Port of Seattle to determine the most accurate value of the land.

Mayor Pro Tem Thomasson agreed with Councilmember Scott that the ordinance needed to provide more direction regarding the method for determining the true value of the property. He suggested that Council study the proposed ordinance at a later meeting or send the issue to the Public Safety and Transportation Committee.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Kaplan and passed unanimously to move Draft Ordinance No. 06-207 to a second reading at a date to be determined by the Mayor.

Resolution No. 06-250 ***[Assigned Res. No.1020]*** – Accepting Findings of Fact that An Emergency Existed

Mayor Pro Tem Thomasson said that the repair of a wash out area was not necessarily a storm water rate issue.

Planning, Building, and Public Works Director Fredricks explained that staff's intention was to use SWM funds as a placeholder until the cost responsibility could be determined. The proper funds would be charged when the budget adjustments are requested.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Pina, and passed unanimously to adopt Resolution No. 06-250 accepting findings that an emergency existed on November 6, 2006 which justified the City's entering into three emergency contracts to evaluate and mitigate the effects of the 50-year rain event.

Mayor Sheckler read the title of the Resolution into the record.

PUBLIC HEARING

Draft Ordinance No. 06-244 Adopting 2007 Budget - 1st Reading

Mayor Sheckler read the title of the proposed ordinance into the record. He opened the public hearing and read the rules for conducting the hearing.

In response to Mayor Pro Tem Thomasson's questioning, City Manager Piasecki confirmed that the draft ordinance had not yet been distributed to Council. He noted that the special revenue funds, debt service funds, and internal service funds still needed to be reviewed with Council.

As staff's presentation of the proposed budget was not yet complete, Mayor Sheckler said that he would allow additional speakers after staff's presentation. He then called for speakers.

Nadine Byers, 26241 13th Place South

As a member of the Human Services Advisory Committee, Ms. Byers reviewed the funding allocation parameters established by Council in 1997. She asked Council to approve the committee's funding recommendations as presented to Council. On behalf of Florence McMullin, another member of the advisory committee, Ms. Byers noted that in 1997, Council had set a goal of funding human services at a level of 1% of the city's basic budget. The $69,000 available to the Committee this year was significantly below that level.

Leesa Kofmehl, 4305 SE 1st Place Renton

As president of Destination Des Moines, Ms. Kofmehl informed Council that the Des Moines Boosters were now a part of Destination Des Moines. She identified the following goals of the group:

- Develop a website.
- Partner with Highline Community College for website articles regarding Des Moines.
- Conduct two new events in Des Moines each year.
- Improve advertising of events.
- Enhance the events conducted in July.
- Re-establish the After-School Program at Pacific Middle School.
- Improve aesthetics and beautification through flower baskets and a volunteer-based spring clean-up program.

Destination Des Moines requested seed money for website development, advertising, membership enhancements, a phone line, logo merchandise, and events.

Pat Noecker, 21436 35th Avenue South, SeaTac

On behalf of Pregnancy Aid, Ms. Noecker provided Council with the agency's statistics related to Des Moines. In response to a concern regarding the agency's religious display, Ms. Noecker ntoed that a wood cross was in the office, not as a message to the clients, but as a reminder to the staff regarding why they serve. Ms. Noecker said that the agency provides aid and training to low income clients regardless of ethnic, religious, political, or social background.

At 8:42 p.m., Mayor Sheckler declared a ten minute break.

AGENDA REVISION

Council concurred that they would address the other agenda items before continuing the public hearing.

OLD BUSINESS

Draft Resolution No. 06-243 ***[Assigned Res. No. 1021]*** Years 2007 – 2012 Draft Capital Improvement Plan

Finance Director Henderson distributed a revised copy of the Arterial Streets CIP summary which included a recommendation to obtain a short term loan for the 16th Avenue South construction project. The short term loan would be paid off within six years by traffic impact fees.

MOTION was made by Councilmember Kaplan and seconded by Councilmember Pina to adopt Draft Resolution No. 06-243 approving the City of Des Moines 2007 – 2012 Capital

Improvement Plan with the transfer of $250,000 from the Revenue Stabilization Fund and the Equipment Replacement Fund.

VOTE ON MOTION: Motion passed, 6 – 1, with Mayor Pro Tem Thomasson opposed.

Reconsideration of Draft Ordinance No. 06-217 ***[Assigned Ord. No. 1389]*** Relating to Short Subdivisions Amending DMMC 17.08.300, DMMC 17.08.340, and DMMC 17.12.010.

Upon questioning from the City Attorney, Mayor Sheckler and Councilmember Pina confirmed that they had viewed the video tape of Council's previous discussion concerning this issue.

Planning, Building, and Public Works Director Fredricks introduced the subject.

MOTION was made by Councilmember Kaplan and seconded by Councilmember White to adopt Draft Ordinance No. 06-217, relating to short subdivision thresholds amending DMMC 17.08.300, 17.08.340 and 17.12.010.

Councilmember Sherman voiced opposition to the proposed ordinance as it would remove additional Council and public oversight.

Councilmember Scott stressed the importance of the City to "think green" when considering subdivisions. Although she was convinced staff was doing a good job, she would vote "no" due to the larger concern.

Councilmember Kaplan stated that the proposed ordinance was intended to streamline the development process. He said that he shared some of Councilmember Scott's concerns but said that Council would be reviewing the Code for consistency and to ensure adequate protections are in place. He said that a nine lot short plat was not the same as a PUD.

VOTE ON MOTION: Motion passed, 4 – 3, with Mayor Pro Tem Thomasson and Councilmembers Scott and Sherman opposed.

NEW BUSINESS

Interlocal Agreement Renewal with Normandy Park for Court Services

Court Administrator Henson introduced the subject.

Mayor Pro Tem Thomasson questioned the calculation of the hourly rate.

Finance Director Henderson said that the rate included direct and indirect costs.

In response to Councilmember Sherman's questioning, City Manager Piasecki informed Council that the estimated cost of providing senior services to Normandy Park residents was $16-17,000. Normandy Park had budgeted $12,000 for those services.

MOTION was made by Councilmember Kaplan and seconded by councilmember Pina to approve the interlocal agreement between the City of Normandy Park and the City of Des Moines for Municipal Court Services and Facilities and to authorize the City Manager to sign the agreement substantially in the form as submitted.

Mayor Pro Tem Thomasson said that approval of the agreement would cause Des Moines citizens to subsidize Normandy Park. He noted that capital funds were used to build the facility used for court proceedings. In addition, the City pays the judge for the time spent developing findings.

VOTE ON MOTION: Motion failed, 3 – 4, with Mayor Sheckler, Mayor Pro Tem Thomasson, and Councilmembers Scott and Sherman opposed.

Councilmember Sherman and Mayor Sheckler asked staff to re-calculate the rate.

Councilmember Kaplan voiced agreement with Councilmember Sherman's concerns regarding Normandy Park's reimbursement to the City for senior services. He recommended that staff review all interlocal agreements that establish a charge for service and confirm that the rate was correct.

Councilmember Pina noted that the senior services contract included a multi-year plan to close the gap. He said that there was not a large demand for the court room during the day.

City Manager Piasecki reviewed the rate formula.

MOTION was made by Councilmember Scott and seconded by Mayor Sheckler to reconsider the issue at the November 30, 2006 meeting.

Councilmember Sherman noted that the city pays employees for breaks.

Mayor Sheckler asked for a more detailed breakdown of the rate.

VOTE ON MOTION: Motion passed, 6 – 1, with Councilmember Sherman opposed.

Potential Termination of the Interlocal Agreement with Yakima County for Jail Services

City Attorney Marousek introduced the subject. As Yakima County had not yet opened a new jail nor provided proper care for the inmates, she recommended the termination of the jail services contract.

MOTION was made by Mayor Sheckler and seconded by Councilmember White to authorize the City Manager to terminate the interlocal Agreement between Yakima County and the City of Des Moines for jail services and to sign the termination letter substantially in the form as submitted.

Mayor Pro Tem Thomasson recommended that, if a future contract is terminated for cause, a one-year notification period should not be required.

VOTE ON MOTION: Motion passed unanimously.

OLD BUSINESS

Draft Ordinance Nos. 06-242-A ***[Assigned Ord. No.1391]*** and 06-242-B ***[Assigned Ord. No. 1390***] Year 2007 Special and General Property Tax Levies – 2nd Readings

Finance Director Henderson introduced the subject.

City Manager Piasecki provided Council with copies of the past meeting minutes regarding the levy lid left.

Mayor Pro Tem Thomasson noted that the ballot measure only mentioned the Police department. He did not want to jeopardize the public's trust by not allocating the entire levy lid lift amount to the Police department.

Councilmember Sherman acknowledged that the ballot measure could be interpreted different ways.

Finance Director Henderson explained that the intent of the measure was to have everything above 1% as the lid lift amount.

MOTION was made by Councilmember Kaplan, seconded by Councilmember White, and passed unanimously to suspend Rule 26(b) in order to enact Draft Ordinance No. 06-242-A and Draft Ordinance No. 06-242-B on first reading.

MOTION was made by Councilmember Kaplan, seconded by Councilmember White, and passed unanimously to enact Draft Ordinance No. 06-242-B authorizing the increase in ad valorem taxes for the year 2007 for general city expenditures, and the 1995 general obligation bonds for police facility construction.

MOTION was made by Councilmember Kaplan and seconded by Councilmember White to enact Draft Ordinance No. 06-242-A, determining the amount of funds to be raised by ad valorem taxes for the year 2007 for general City expenditures, including levy lid-lift ad valorem taxes to provide funds to restore police department staffing to previous years' levels per Ordinance No. 1375, and the 1995 general obligation bonds for police facility construction.

MOTION was made by Mayor Pro Tem Thomasson to amend the draft ordinance so that all the increase from $1.60 go to the Police department. Funds from new construction would continue to be handled as they currently were.

Councilmembers Pina and Scott disagreed with Mayor Pro Tem Thomasson's interpretation of the ballot measure. They said that without a vote the General Fund would have received 1%. Therefore, only the amount above 1% should go to the Police Department.

Councilmember Pina said that he understood the campaigners described the ballot measure in this manner.

Mayor Pro Tem Thomasson said that the 1% was not automatic but subject to Council's discretion. He suggested asking the Attorney General or the State Auditor to provide a legal opinion regarding the issue.

At 8:58 p.m., Mayor Sheckler declared a ten-minute break.

As Mayor Pro Tem Thomasson's previous motion had not been seconded, Mayor Sheckler asked him to restate his motion.

Mayor Pro Tem Thomasson **repeated his prior motion**.

Councilmember Sherman **seconded the motion**.

Councilmember Sherman reiterated that the ballot measure could be interpreted a number of ways. As the Police department accounts for 50% of the City's budget, one half of the one percent would have still gone to the Police department. At the end of six years, the City will still end up in the same position.

Councilmembers Scott and Pina said that they would support the motion in order to preserve the public's trust.

VOTE ON AMENDMENT: Motion passed unanimously.

VOTE ON MAIN MOTION: Motion passed unanimously.

PUBLIC HEARING, Continued

Draft Ordinance No. 06-244 Adopting 2007 Budget - 1st Reading, Continued

Council reviewed the proposed Human Services budget allocations.

Councilmember Sherman proposed the following changes:

- Restore King County Sexual Assault funding to $4,100.
- Restore DAWN funding to $6,000.
- Restore Crisis Clinic funding to $4,000.
- Eliminate funding for Pregnancy Aid.

Councilmember White noted that the available money was far below 1% of the City's budget. She voiced disappointment with the amount of money available for human services.

Mayor Sheckler said that the Human Services Advisory Committee spent a considerable amount of time formulating their recommendation. He voiced support for the recommended funding allocations.

Mayor Pro Tem Thomasson stated that an advisory committee was created for the purpose of studying a subject, applying Council's criteria to rate the applications, and developing a recommendation for Council. He agreed that the recommendation of the Committee should be accepted.

Councilmember Sherman offered to serve as Council's representative to the Committee next year.

MOTION was made by Councilmember Pina and seconded by Councilmember White to adopt the human services budget as proposed.

Councilmember Sherman agreed that the needs of the community were very great. He voiced appreciation for the work of the Committee and the job they did with the limited funds available.

VOTE ON MOTION: Motion passed unanimously.

Finance Director Henderson reviewed the proposed budgets for the following funds:

- Special Revenue Funds
- Debt Service Funds
- Internal Service Funds

Mayor Pro Tem Thomasson asked that a list of buildings, square footage, assessment, and future projects be provided to Council.

Councilmember Pina requested that staff show the history of revenues and expenditures of the Police Drug Seizure funds.

Mayor Pro Tem Thomasson said that a footnote regarding the internal controls for drug seizure expenditures would be helpful.

At 10:05 p.m., Councilmember White left the meeting.

Finance Director Henderson announced that the entire proposed 2007 budget had now been presented to Council.

MOTION was made by Councilmember Kaplan, seconded by Councilmember White and passed unanimously to continue the public hearing to Saturday, November 18, 2006 at 9:00 a.m.

Finance Director Henderson distributed a handout of the slide presentation for Saturday's meeting.

NEXT MEETING DATES – Special Meeting, November 18, 2006
Regular Meeting November 30, 2006

ADJOURNMENT
At 10:23 p.m., **motion** was made by Councilmember Kaplan, seconded by Councilmember Pina and passed unanimously to adjourn the meeting.

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk

ACTION ITEMS FROM 11/16/06 COUNCIL MEETING - None