REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES June 14, 2007

CALL TO ORDER - The regular meeting of the Des Moines City Council was called to order at 7:32 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 Councilmember Dave Kaplan.

ROLL CALL - Present: Mayor Bob Sheckler, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, and Dan Sherman. Also attending were City Manager Tony Piasecki, City Attorney Pat Bosmans, and City Council Clerk Tina McVey. Councilmember Susan White was unable to attend and motion to excuse was approved unanimously by the remaining members of the City Council. Mayor Pro Tem Scott Thomasson arrived at 7:36pm.

PUBLIC COMMENTS:

Ms. Alice McCabe introduced herself and stated her opposition to the sidewalk planned for the Zenith Viewpoint development. She stated the public road the City is requiring of the developer is actually more of a private drive which will only extend as far as the new structures being built. She offered to swap the City the 5 feet proposed for the sidewalk location for land on 7th Avenue which she owns. As her property lines show to extend as far as the neighbor's garage across the street from her on 7th Avenue, it was her feeling the City should expend energy in solving the lot line confusion in the neighborhood rather than on 5 feet of sidewalk which no one but the City seems to want built. She stated the Zenith neighborhood is a very unique neighborhood and that the sidewalk would detract from that uniqueness. She stated that the developer did not want the sidewalk either and was concerned about preserving the character and uniqueness of the neighborhood.

Mr. Robert Benson introduced himself and stated he was also concerned over the building of this sidewalk. He provided a history of the area, relating how the street because a stairway and platform which is now little more than a path to the beach. He stated the street being built would be extending only as far as the new development project and that he did not see the necessity behind having the sidewalk built. He questioned why the City was requiring the sidewalk when the developer didn't want it and neither did the neighbors.

Mrs. Debbie Workman was unable to attend and the Council allowed Ms McCabe to read aloud Mrs. Workman's written comments. She wrote that she was concerned regarding the loss of five feet of mature landscaping on the property in question, including the removal of a tree because it would be overhanging part of the sidewalk. She wrote that she was concerned that with the property line issues in the entire neighborhood that they would lose their front yard under the same type of circumstances Ms McCabe was losing 5 feet of what she thought was her property.

Mr. Wayne Corey introduced himself as a representative of the Enhanced Public Safety Committee. He expressed his thanks to all those who attended the open house for the new Redondo Substation. He then announced the Emergency Preparedness Fair at the Activity Center on June 24th. He stated there would be vendors available for those who wished to purchase emergency preparedness kits. He also stated there was now a special coupon for low income senior citizens which would allow them to obtain the kits for free.

Mr. Lloyd Lytle introduced himself and stated his opposition to the sidewalk to be built in Zenith and asked the Council to reconsider the City's requirements.

Mr. Allen Smith introduced himself and stated his opposition to the sidewalk to be built in Zenith and questioned why the Masonic Lodge was not made to build a sidewalk after their new construction.

George Pettibone introduced himself and stated his opposition to the sidewalk to be built in Zenith and related instances where he felt others had had to fight with the City to have their concerns addressed. He stated he felt that sidewalks were more needed by schools and in other neighborhoods and wished for the City to pass a resolution that would leave Zenith alone.

Mayor Sheckler stated that with the comments made over the past month, City Staff was well aware of the concerns of those in the neighborhood. He further stated that Staff had nearly all their homework done and the Council and Staff would be speaking with the City Manager and would be trying to come to a resolution in the near future.

City Manager Piasecki stated in regard to the 7th Avenue issue, he had spoken with Mrs. Workman last week and that Staff was very aware of the particular situation in that area. He stated it was thought the City needed to draw new lines which would determine how much roadway the City needed. He stated it would take quite a bit of work to develop a compromise which everyone would accept, but they would be working toward that goal. He stated that in regard to the Masonic Lodge, they would be required to build sidewalks when the development actually goes in. The construction which has occurred at this point was to build 2 model homes to assist with the selling of the development. He further stated that he and Ms. McCabe had spoken several times in the last week and a half regarding the sidewalk issue. He stated that with the way the Code is written, he was unable to justify waving the requirement but had asked Staff to try and be creative. As the sidewalk is one of the last things to be done, there is some time to try and see what could be done.

Councilmember Scott stated she felt the development standards should not be forced on historic areas if they conflict with the character of the neighborhood.

Councilmember Pina stated his agreement with the need for Council to consider modifying the rules in order to keep the continuity of the area.

Councilmember Sherman stated his concerns were more focused on the lot line issues on 7th Avenue. He stated he would like a visual regarding the neighborhood and the issues the neighbors which concerned the neighbors.

Mayor Sheckler reminded the audience and Councilmembers that this is not an agenda item for this Council meeting and, while he had been flexible in allowing comments, discussion needed to close in order to continue with the scheduled agenda items.

BOARD & COMMITTEE REPORTS & COUNCILMEMBER COMMENTS

Councilmember Scott: Attended the Open House for the Redondo Substation earlier that day. She will also be meeting a group of Farmers' Market individuals who had been encouraged to dress as farmers and bring some of their produce with them as they would all be traveling to KOMO TV offices to be possibly interviewed.

Councilmember Sherman: (1) Attended Human Services Advisory Committee meeting for the first time as his schedule rarely allows him to attend. He was very impressed with the committee and thought they were doing an excellent job in the difficult task of decided how and where the money in the budget should be spent. (2) There was now wi-fi in the Marina. The Marina has had limited wi-fi service provided by a company (Nohbell) with a small antenna on the area restaurant. As a result of a cooperative effort between the City and Nohbell, there is now going to be a taller antenna placed on a mast which will provide service to a much larger area. This will be a pay service which will require payment based on day, week, or month. The southernmost docks may have trouble receiving the signal, but there are smaller antennae which can be bought to allow better reception. For anyone wanting more information, the website for the company is http://nohbell.net. (3) Reminded everyone of the upcoming road construction in the Spokane Street area in Seattle. (4) Announced that as there were no opponents to any of the currently held three seats on the Council this year, he wanted to make a presentation to the City in the form of a donation of $2,000 to build a water station on what will be the newly constructed trail head for the Des Moines Creek Trail. He presented the check to Parks and Recreation Director, Patrice Thorell.

PRESIDING OFFICER'S REPORT

Mayor Sheckler at this time asked Chief Roger Baker to take the floor in order to discuss the opening of the new Redondo Substation.

- Chief Baker provided a history behind the opening of the substation, including the changes in personnel and space requirements brought about by the passing of the Levy LID Lift last year. The extra funding allowed the PD to restore three Community Service Officer positions, six Commissioned Officers positions, and 1 Records Clerk position created challenges in space. Stored furniture and office equipment which was originally intended to support these restored personnel were used to create office space in the substation. He thanked Councilmember Scott for the period photographs which are in the substation, Commander Kevin Tucker for his assistance with the project from its conception, Capital Improvement Program Manager Scott Romano for his assistance working with the contractors and Helen Watley-Ames of the Joshua Green Property Management Company, and the volunteers of the Enhanced Public Safety Committee and its members for helping with the open house. He announced there would be another open house on Saturday, June 16th from 10am – 4pm. Chief Baker then invited comments and questions from the Council.

- City Manager Piasecki passed out a handout of the costs requested in an earlier meeting by Councilmember Kaplan and stated construction costs had come in $28 under budget. He also stated the majority of the costs resulted from the City having to buy office furniture and supplies which was originally thought could be obtained from State Surplus, but couldn't. He also stated Chief Baker used money from other parts of the PD's budget to pay for the extra cost items.

Mayor Sheckler then continued his report, inquiring as to the news he'd heard earlier that day regarding the leaving of Barbara Gladding, the Nutrionist with Senior Services. City Manager Piasecki stated that this was her last day as Ms. Gladding was leaving to pursue other interests. Parks and Recreation Director Thorell was asked to inform the Council of the arrangements being made to cover her duties. Director Thorell stated there would be replacing the position with 2 nutrition outreach coordinators who will share the weekly hours. Mayor Sheckler asked that Director Thorell pass along the City's thanks and appreciation for all her hard work.

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 regular minutes of May 10, 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 #109339 through #109566 & electronic fund transfers in the total amount of $1,472,010.96.
   Payroll fund transfers in the total amount of $320,974.08.
3. ~~Draft Resolution No. 07-111 Title: A Resolution of the City Council of the City of Des Moines, Washington, relating to Claims for Damages, and appointing Acceptance Agents for Claims for Damages filed against the City pursuant to chapter 49.60 RCW.~~
   ~~Motion is to approve Draft Resolution No. 07-111.~~ (removed by Mayor ProTem Thomasson for further discussion)
4. ~~Motion is to approve the professional services contract Supplemental Agreement No. 1 with INCA Engineers, Inc. for the repair of a landslide that occurred in January of 2007 on Des Moines Memorial Drive in the amount of $64,684.90 and to authorize the City Manager to sign the agreement substantially in the form as submitted, and further to authorize the City Manager to approve contract changes up to 10% of the contract amount.~~(removed by Mayor ProTem Thomasson for further discussion)
5. Motion is to remand to the Public Safety and Transportation Committee the following two items: 1) Revision of the Des Moines Street Development Standards, and 2) Development of a proposal for City Council consideration of a photo enforcement program for stop lights and/or school zone speed limits.
6. Motion is to approve the agreement with Moffatt & Nichol for engineering, design, and permitting services for the Bulkhead Replacement Project, Phase 1, and authorize the City Manager to sign the agreement substantially in the form as submitted.
7. ~~Draft Resolution No. 07-121 Title: A Resolution of the City Council of the City of Des Moines, Washington, expressing the Council's intent for the City staff and City Council to work cooperatively with the City of SeaTac to coordinate transportation and land use planning and development efforts in the 24th/28th Avenue South and International Boulevard/Pacific Highway South (SR 99) corridors.~~
   ~~Motion is to approve Draft Resolution No. 07-121.~~ (removed by Mayor ProTem Thomasson and Councilmember Dave Kaplan for further discussion)

➢ Motion was made by Mayor ProTem Thomasson, seconded by Councilmember Kaplan, to approve the Consent Calendar as amended. Motion passed unanimously.

REMOVED CONSENT ITEMS

Item #3 - Draft Resolution No. 07-111 – Title: A Resolution of the City Council of the City of Des Moines, Washington, relating to Claims for Damages, and appointing Acceptance Agents for Claims for Damages filed against the City pursuant to chapter 49.60 RCW.

Motion is to approve Draft Resolution No. 07-111.

Discussion began with Mayor ProTem Thomasson asking if the City Council could delegate that the City Manager could appoint the acceptance managers rather than have it come before the Council in an effort to streamline. City Attorney Bosmans stated it was considered describing this as position only, but the purpose of naming individuals is to allow attorneys to look up who they should present services and processes to in the City government. She will research as to whether the City Manager can be allowed to appoint the agents. City Manager Piasecki inquired as to whether the wording "governing body" would not mean that the Council would have to name the agents. City Attorney Bosmans stated that she believed it was saying that the City Council can direct the City Manager to name the agents. City Manager Piasecki advised Council that it would be a good idea to approve this resolution as it was tonight and then have the City Attorney research whether there could be a more streamlined way to name the agents.

- Motion to approve Item #3 was made by Mayor ProTem Thomasson and seconded by Councilmember Pina. Motion passed unanimously.

Item #4 - Motion is to approve the professional services contract Supplemental Agreement No. 1 with INCA Engineers, Inc. for the repair of a landslide that occurred in January of 2007 on Des Moines Memorial Drive in the amount of $64,684.90 and to authorize the City Manager to sign the agreement substantially in the form as submitted, and further to authorize the City Manager to approve contract changes up to 10% of the contract amount.

Discussion began with Mayor ProTem Thomasson stating that his concern was for the method of funding the project, not for the agreement itself. He stated it did seem to be appropriate to spend Stormwater funds to repair a slide for public property when those funds would not be used to repair a slide on private property. Councilmember Kaplan stated that it was his concern that we make certain that adequate improvements are made to prevent these slides from happening in the future. It was his opinion that improvements have not occurred on many of these old roads and the City needs to have a better drainage in those areas. Mayor ProTem Thomasson stated his concern was that the funds were being used for road repair rather than building drainage facilities. City Surface Water Management Engineer Loren Reinhold informed the Council that there was a drainage component to the repairs as the major part of the cost was in road drainage on Des Moines Memorial Drive and adding an outfall that would discharge down the hillside. Council requested that in future recommendations that justification for using Stormwater funds be explained more fully in the documentation.

- Motion to approve Item #4 was made by Mayor ProTem Thomasson and seconded by Councilmember Sherman. Motion passed unanimously.

Item # 7 - Draft Resolution No. 07-121 - Title: A Resolution of the City Council of the City of Des Moines, Washington, expressing the Council's intent for the City staff and City Council to work cooperatively with the City of SeaTac to coordinate transportation and land use planning and development efforts in the 24th/28th Avenue South and International Boulevard/Pacific Highway South (SR 99) corridors.

Motion is to approve Draft Resolution No. 07-121.

- **Council Amendments and Motions Regarding Resolution No. 07-0121.**

- ❖ Councilmember Kaplan making the motion to amend the Draft by removing "efforts in the 24th/28th Avenue South and International Boulevard/Pacific Highway South (SR 99) corridors." The Resolution would then read "A Resolution of the City Council of the City of Des Moines, Washington, expressing the Council's intent for the City staff and City Council to work cooperatively with the City of SeaTac to coordinate transportation and land use planning and development efforts." The motion was seconded by Councilmember Scott.

  Councilmember Kaplan then made an amending motion to add in the first paragraph of the actual resolution in the Title, the locations "Des Moines Memorial Drive, South 216th Street," after "...development efforts in the 24th/28th Avenue South" the and to have that same language added in the second paragraph after "....significant development along SR 99,", which was seconded by Councilmember Scott.

  Councilmember Kaplan made a second motion to amend the original motion and to also include changing the language on Page 3, sub 4, so that it would read "Further, that the City **may** seek..", which was seconded by Mayor ProTem Thomasson.

➢ **Motion passed unanimously.**

- ❖ Councilmember Scott stated her concerns regarding the language on the 2nd page which assumes both cities will always agree when in reality, they may not. She asked Planning Building and Public Works Director Grant Fredricks to provide more information. Director Fredricks stated it was the Department and the Port's intention with this resolution to create a framework for having discussions between the entities on a political and staff level. This would put Staff in a position to facilitate the Council's decisions as to what direction they wished to pursue. It also provides for a more coordinated planning effort with those areas of the City which could be impacted by this development.

  Mayor ProTem Thomasson stated his concerns regarding the part of the statement in the second Whereas on Page 1 that discuss the light rail. Council's decision previous was that the light rail was not wanted down SR 99 and this statement makes it sound as if the Council is agreed to allow it. City Manager Piasecki suggested that the entire statement regarding the bus rapid transit and light rail link be removed. Motion was made by Mayor ProTem Thomasson and seconded by Councilmember Dave Kaplan to amend the statement, removing everything after "...are expected to be approved in the future."

➢ **Motion passed unanimously.**

- ❖ Mayor ProTem Thomasson stated his concern regarding the language in the fifth "Whereas" on the 1st page with the language "freight mobility." Councilmember Pina suggested the wording be changed to "freight access" and City Manager Piasecki then suggested it be further modified to read "vehicular access." Motion was made by Mayor ProTem Thomasson and seconded by Councilmember Dave Kaplan.

➢ **Motion passed unanimously.**

- ❖ Mayor ProTem Thomasson stated his concerned regarding the language in the first "Whereas" on the second page. He felt the phrases "Cities further agree" "will pursue" was binding and did not want to have that in the resolution. The 1st and 3rd "Whereas" should be softened to say the City is interested and will explore options. He stated that in the previous meeting, the Council had empowered Staff to have discussions about these matters, not make agreements. Councilmember Pina suggested the wording be changed in the 1st "Whereas" be changed to read "..the Cities further agree that to preserve the option of considering…" Mayor ProTem Thomasson agreed to that modification of the statement. Mayor ProTem Thomasson next stated he also did not want "no protest LID agreement" as part of the resolution as it has been his experience that these are of no value and should not be something the Council agrees to have. Councilmember Sherman also expressed concern and said that the entire paragraph was unwieldy and needed to be simplified. His suggestion was to change it to "…Cities agree to discuss transportation funding, including but not limited to local improvement districts and no protest LIDs." It was Councilmember Sherman's concern that this resolution was making statements on points which the Council had only agreed to only discuss at this point and modifying in this way would bring this back to a discussion item, not an agreement to pursue. Motion was made by Mayor ProTem Thomasson and seconded by Councilmember Dave Kaplan.

➢ **Motion passed unanimously.**

❖ Mayor ProTem Thomasson's next concern was in the language at the body of the Resolution itself, Section 1, where it discusses the corridors as the corridors from earlier discussions are also not included, and the Link Light Rail along SR99. City Manager Piasecki suggested removing the phrase "..along SR99,.." and adding the other corridors to leave the items as discussion points and doesn't compromise the City's position. Motion was made by Mayor ProTem Thomasson and seconded by Councilmember Dave Kaplan.

➢ **Motion passed unanimously.**

❖ Vote on the Motion to approve Draft Resolution No. 07-121 as amended by Council - Original motion made by Councilmember Kaplan and seconded by Councilmember Scott.

➢ **Motion passed unanimously.**

Council unanimously recommended that the Public Hearing items be moved to hear the New Business item regarding Mediterranean Heights in the interest of conserving time.

NEW BUSINESS

Draft Resolution No. 07-012 Approving Mediterranean Height Final Plat

Mayor Sheckler turned the floor over to Development Services Manager, Robert Ruth.

DS Manager Ruth stated this was the request for final plat approval for Mediterranean Heights. The preliminary plat was originally approved in 2001, and had also reviewed a revision for the plat in December of 2006 when another lot was added to make it a 12 lot proposal. At this time, there is one primary access and we have reviewed the final plat document for correctness as well as performing inspections on the plat. It is the opinion of Staff that this project has met the requirements of a plat. There have been improvements made to add curbs, gutters, and sidewalks, as well as a first layer of asphalt. Along the project perimeter there is a half street section which also now has curbs, gutters, sidewalks, and asphalt. There has been an extensive sewer work completed, and all that remain to be completed are minor pickup items. Staff believes there is sufficient bonding and securities to make sure those things are done in a timely manner.

Questions/Comments from the Council and Mayor:

- Councilmember Kaplan asked as to whether there was a timeline in place for getting these other items completed. DS Manager Ruth stated there was not, but that his department would be working with Engineering and with Mr. Ayar to see that they were completed in a timely fashion.

- Motion was made by Councilmember Kaplan to approve the Final Plat and seconded by Councilmember Sherman.
- Councilmember Scott had questions regarding how the resolution states there will be as part of the final plat common areas to be maintained by the HOA, but the first page seems to show that some of the areas being landscaped will be donated to the public. Will that then make the City responsible for the maintenance of the tracts? DS Manager Ruth stated there would be some tracts which would be maintained by the HOA, but those which were donated to the City would be maintained by the City. She further questioned if the City would be accepting liability for the retaining wall. DS Manager Ruth stated the applicant and engineer would be responsible for liabilities to do with the wall, but after the required 2 year monitoring area by the applicant, the City would be responsible for maintaining the planter wall as it is in the City Right of Way.
- Councilmember Sherman asked if the City was satisfied that the retaining wall would adequately hold back the surcharge and not fall into the road. DS Manager Ruth stated that our Engineering staff worked with 2 separate engineers hired by the applicant and were satisfied that it was adequate. This was also monitored through the winter and, with the addition of a curtain drainage system, it did very well.
- Mayor ProTem Thomasson requested the following changes/modifications:
    - Requested that the mylar have a note on it to state that the retaining wall was a private wall and that it was the responsible of the lots bordering it. DS Manager Ruth stated it could possibly be something that would be shared ownership/responsibility by the entire HOA and he would need to check with the applicant to be sure. DS Manager Ruth and City Manager Piasecki stated they would research further to make sure the appropriate language was noted on the mylar.
    - Note 8 and the easement provision on the first page read similarly and are redundant. Page one should be eliminated and note 8 move to the front page or leave as Note 8. DS Manager Ruth stated the notes were more specific and that it would be his inclination to remove that on the front page.
    - Typo in Note 7. The note itself gives a tax parcel ID number as .....9057, but the plat itself gives the parcel number as .....9075.
    - Note 6 in the last sentence, the property owner is responsible for adjacent lot improvements and maintenance of tract fees. However, the City does not have the authority to make the homeowner responsible for those improvements and maintenance in the subdivision process.
    - Note 3, last sentence, the word should be formed instead of form.
    - Note 9 should reference lots 8 & 9.
- Mayor ProTem Thomasson stated his next concern was in regard to the "park in lieu fees." He stated the Code is very explicit and states 5% of the market value of all of the lots in the subdivision. This means it should be 5% of the improved land and not just raw land. The memo presented to Council by Staff during the hearing stated the number was derived by the amount was based by market value of the entire site without improvements or home built onto the site. It is his opinion that Staff does not have the authority to do something other than what the Code says. While he would approve what's been calculated, but he is concerned as to whether we are collecting the right park-in-lieu fees by the Code. City Manager Bosmans stated the law in the area has changed in regard to park and open space. Her research into other similar cases stated the City had to have a basis for making these demands upon development and have to be site specific as to what is requested. Holding onto the percentage type calculation could cause the City to have difficulties should it be challenged in court. Mayor ProTem Thomasson stated if the Code could be challenged in Court, then perhaps it should be changed. However, until it is changed, there is no authority to allow the City to deviate from the Code and if the City is sued

by someone, the City will deal with the lawsuit at that time. City Attorney Bosmans stated the City does not have authority to deviate from the Code unless there is a reason for it. The reason for it in this instance is that the Council had already considered a park dedication in this instance and decided what that parcel would be. If that in-lieu fee was equivalent of the fees of the lot agreed to previously, the City should be ok. Councilmember Kaplan asked for clarification as to which amount was the correct amount. DS Manager stated that the number Staff derived was about $4,000 a lot, which is higher than a lot of other subdivisions. To run the numbers as improved lots, the impact becomes $10,000 - $12,000 per lot.

- Councilmember Kaplan stated the Final Plat needed to approved.
- Councilmember Sherman stated there was definitely some confusion as to how the numbers were determined, that this has indeed been in process for quite a while, that there are apparently policy issues that do need to be straightened out, and the City needs to take a deeper look into how the City determines the park-in-lieu fees. He stated this did need to be approved at this time, even with those issues.
- Councilmember Scott stated she too felt this should be approved.

➢ Motion passed 6-1, Mayor ProTem Thomasson voting Nay.

At 9:29, Mayor Sheckler announced a 10 minute break.
At 9:39, Council resumed.

PUBLIC HEARING

Draft Resolution No. 07-092 – Adopting 6 Year Transportation Improvement Program 2008-2013.
Mayor Sheckler stated no one had signed in to speak to this matter and he asked if any one in the audience wanted to speak. This was asked three times, each with no response. Mayor Sheckler then closed the public hearing and turned to the Council for discussion.

Councilmember Sherman made the motion to approve the resolution, Councilmember Kaplan seconded.

Councilmember Sherman provided the basic details as to what the program entailed. Each year the City must put together a six-year plan which includes all the projects which will need to be done during that time frame regarding transportation improvements. The Public Safety and Transportation Committee had reviewed the resolution and were satisfied with it.

Councilmember Kaplan requested that Staff develop a scope and/or definition for a study of the entire 216th corridor from the Bridge to Marine View Drive.

➢ Motion unanimously passed.

Draft Resolution No. 07-106 Landmarque Modified Subdivision
Mayor Sheckler read the rules for speaking to those in the audience who had signed in to speak during the Public Hearing. Those speakers who had signed in were then sworn in by the Mayor.

Jason Sullivan, Land Use Planner, who provided the Council with the background of the development's process from application to the current Public Hearing for the approval of Draft Resolution No. 07-106. Mr. Sullivan summarized the requirements for the subdivision and related how Landmarque had met each of the requirements of the Comp Plan, compliance with Title 18, design and layout, and SEPA. Mr. Sullivan further stated that this was a coordinated development involving the municipalities of Des Moines, Federal Way, and Kent as there would be significant access impacts within each of the cities' boundary lines.

Mr. Sullivan then listed the areas in which the developers were requesting deviations from current subdivision requirements:

- Lot depth to width ratio
- Alleys will be built to private street standards, but will be serving more than 4 lots
- Right of Way widths
- Distance between driveways
- Distance between intersections

Mr. Sullivan stated that these deviations were recommended for approval by the department for this project.

The Mayor then invited the first of the speakers, Mr. David Litowitz, to the podium to address the Council. Mr. Litowitz introduced himself as the developer for this project and provided the Council with background information of his personal involvement with this project and with his past history with the City of Des Moines in other projects. He then went on to state that in regard to this development, the City of Des Moines would benefit from approving the resolution as the development had been designed to provide ample sidewalks and will create excess park space from what is presently required.

The Mayor then invited the second speaker, Mr. Paul Morrow, to the podium to address the Council. Mr. Morrow introduced himself as the surveyor and engineer for the development and provided the Council with his credentials in both the surveying and engineering fields. He then gave his comments on the proposed draft ordinance and development, reiterating that the design and layout called for all lots to be developed in compliance with the Comp Plan and Des Moines Municipal Code. He stated the smaller lot sizes being requested in the draft resolution were in keeping with Growth Management and that the property set aside for the park would have plenty of sidewalks throughout it. Mr. Morrow then explained that the vault required for surface water management needs would be built under the park and that the limited vehicular access throughout the park area would, in their opinion, encourage a sense of community type activities which would better the area. He stated the development would have several house plans, some of which would front the park area, others which would have front porches facing the street, some houses would have front facing garages, and some would not.

The Mayor then called three times for other speakers and when none came forward, the Mayor asked if Council had comments and/or questions for the proponents or for staff.

<u>Council Comments and Questions:</u>

Mayor ProTem Thomasson stated he had sent an email to Staff regarding his concerns about some technical issues to do with the proposed development and ordinance, but had not heard the speakers address any of them to that point. At this time, Land Use Planner Jason Sullivan returned to the podium and stated that Staff had taken those questions and developed handouts for each of the Councilmembers which Staff hoped would provide those answers.

Handout 1 referred to the utility easements on the property:
(1) Do the subdivision requirements of 20 foot utility easements apply to lots 10-17? Staff stated that this was a pre-existing easement and that as long as it was a sewer easement, the City could not enforce the 20 foot easement requirement. After discussion by various Councilmembers requesting more

information regarding whose authority would make the official decisions, City Manager Piasecki stated it would need to be researched further.
(2) Who is the grantee of the 10 foot drainage easement on lots 45-48, are there pipes in the easement, are they public or private, should the 20 foot requirement apply, should the easement be released? Mr. Sullivan stated this was on the books but never developed, so there was no pipe and it was a private easement and the City, therefore, has no involvement in deciding whether or not it should be released.
(3) Does the 5 foot sewer easement that crosses the upper portion of the site have any pipes and if so, shouldn't the 20 foot width apply? Mr. Sullivan stated there was no pipe in the easement and the side sewer will be provided for in a different location which will meet the 20 foot requirement.
(4) Do the easements fronting Highway 99 meet the 20 foot requirement? Mr. Sullivan stated that this was also a pre-existing sewer easement and the City could not enforce the 20 foot requirement. City Manager Piasecki stated this would also need to be researched for the same purpose as was stated in the first question.

Mayor ProTem Thomasson asked if the easement which was northeast of the tract part of the same easement and Mr. Sullivan responded that it was.

Handout 2 referred to the Wetlands in and around the property:
(1) Mr. Sullivan passed out a requested map depicting McSorley Creek and the associated wetlands near the development as well as the stream or wetland buffers that would extend onto the subdivision.
(2) Are there any wetlands on the City of Kent's parcel adjacent to the proposed subdivision? Staff's response was that there are none.
(3) Mr. Sullivan next passed out a requested map and supporting calculations regarding the filing of wetland "B" as represented on the development layout map.
(4) What is the area of wetland "A" and what is the area of the required buffer for wetland "A"? What is the area required to be replaced for wetland "B" and it's buffer? Mr. Sullivan stated the area for wetland "A" was 9,021 square feet and the required buffers and areas were further detailed in the Agenda under the Environmentally Sensitive Area's Section on page 11.
(5) What is the total area proposed for the improved wetland and what is its shape? Mr. Sullivan stated the applicant is proposing to create 9, 115 square feet of wetland adjacent to wetland "A". He then referred the Council to page 12 of the Agenda Item and page 8 of the wetland report prepared by Sewall Wetland Consulting.
(6) What is the total area proposed for the improved wetland "A" buffer and what is its shape? Under the conceptual mitigation plan there are 29,456 square feet of buffer enhancement and replacement. The proposed buffer requires a 35 foot buffer for important wetlands. He then referred Council to Sheet 1 of 3 of the preliminary subdivision attached to the Agenda Item for the shape of the buffer.
(7) How are the buffers along Highway 99 addressed and adjusted? Mr. Sullivan stated the only portion of the wetland that does not have a buffer is located adjacent to Highway 99 and was legally altered by the original development of Pacific Highway and recent reconstruction of the highway. As this was legally altered, the application is not being required to restore it.
(8) There are several proposed sewer and stormwater pipes within the existing wetland "A" and proposed new wetland "A" buffers. Shouldn't this be avoided, what does the code say, and what attempts have Staff made to avoid this from happening? Mr. Sullivan stated that some of the pipes that are currently within the buffer can be removed during the review of the final engineering and that approval of the preliminary plat only approves the conceptual layout. The approval of the final engineering design would occur afterward.

Handout 3 referred to perimeter yard dimensions:

(1) Mr. Sullivan passed out the requested map of the front, side, and rear perimeter yards, showing compliance with all yard requirements.
(2) Are the setbacks for the lots and homes adjacent to the commercial properties (lots 44-48, and 35-42) considered adequate? Mr. Sullivan stated that they were consistent with the Des Moines Municipal Code.

Handout 4 referred to conditions of approval for rezoning:
What conditions of approval were made during the rezone that affect the subdivision? Mr. Sullivan stated there were 7 conditions of approval that were tied to the Mitchell-Chamlian Rezone approved under Ordinance 1372 and that out of those 7 conditions of approval, only 2 provided specific guidance related to the future development of the property. Those two conditions are (1) the rezone of parcel #282204-9233 to RA3600 is approved only with concurrent townhouse development of parcel #'s 282204-9067 & 282204-9209, and (2) access from these properties along 20th Avenue South and South 261st Place shall be restricted to emergency vehicles only.

- At this time, Mayor Sheckler pointed out the time to the Council and asked if there was a motion to extend the Council meeting or did Council wish to continue the discussion at a later time. Mayor ProTem Thomasson made the motion to extend until 11 with Councilmember Kaplan seconding. The motion passed unanimously.

Mayor ProTem Thomasson inquired as to planned parking for the development. Mr. Sullivan stated that per the City's Municipal Code, there would be 2 spaces required per unit.

Mayor ProTem Thomasson inquired (a) as to why there were no planter strips indicated as the City has historically required them in subdivisions. Mr. Sullivan stated that it was determined with the Transportation Department that because of the classification of the road, it was not required in this instance.

Mayor ProTem Thomasson then noted for Staff that regarding the right of way to 20th which is 50 feet, and by that determination, Lot 61 would need to have a 60 foot turning radius and that the parking area on the map is marked as "open space A". Mr. Sullivan stated that was a labeling error and would be corrected.

Mayor ProTem Thomasson reiterated his concerns regarding the 20 foot easements and if the City would allow utilities to dictate the widths for the development. It would be his choice to have this addressed by the City Attorney and Staff by the time of Final Plat. He would also like to see as a condition of the rezone that the access via 20th be more clearly defined as to what the City's authority would be in the future as to whether the City can decide whether or not to open that access.

Councilmember Scott expressed her concerns regarding the floor plan options and the quality of the living space in regard to available storage. Her concern was that the garage which was meant to enclose vehicles would turn into storage space and cars would have to be parked in the driveway. She would like to see it addressed so that the neighborhood did not turn into one where all the cars were parked outside.

Mayor ProTem Thomasson stated that lots 18-20 showed where they opened onto the park, but there are no sidewalks which connected them to the park. Mr. Sullivan stated that this was something that would be brought in with a blending of a path rather than a road. Mayor ProTem Thomasson then asked if there should be an easement which would allow the homeowners to use that access if they are outside of standard park times and Mr. Sullivan stated they could work with the developers to insure that the homeowners could use that access after park hours.

Mayor Sheckler asked the Council for other comments or questions and receiving none, closed the Public Hearing.

➢ Councilmember Kaplan made the motion to approve, Councilmember Scott seconded the motion. The motion passed unanimously.

NEW BUSINESS ITEM 2:

Des Moines Activity Center Landscaping Project Bid Award
Mayor Sheckler introduced Park and Recreation Director Patrice Thorell who then explained the need for the landscaping at the Activity Center and the associated bid process for the work. The options available as recommended by Staff are:
(1) direct staff to transfer $21,799.60 from un-programmed excess 2006 Real Estate Excise Tax year end balance, in the next budget amendment; or
(2) approve the contract for the Des Moines Activity Center Project to the lowest bidder, Creative Brothers Landscape Corporation for the bid amount of $15,957 plus tax and authorize the City Manager to sign the contract, substantially in the form as submitted. And to authorize the City Manager to approve change orders not to exceed 10% of the total contract amount; or
(3) approve the contract for the Des Moines Activity Center Project to the lowest bidder, Creative Brothers Landscape Corporation to include the bid amount of $15,453 and Alternate #1 in the additive amount of $4,565 for a total bid of $20,018 plus tax and authorize the City Manager to sign the contract, substantially in the form as submitted and to authorize him to approve change orders not to exceed 10% of the total contract amount

Director Thorell stated Alternative #1 included renovating and grading 19,000 square feet east and south of the Activity Center, installation of top soil, hydroseeding 15,400 square feet, and installing 3,600 square feet of matching sod. She also provided three other possible options to this alternative:
(1) Hydroseed entire area east and south of the Activity Center at a cost of $15,957 plus tax, totally $17,377.17; or
(2) Hydroseed 15,400 square feet of identified area and install 3,600 square feet of matching sod at a cost of $20,018 plus tax, totaling $21,799.60; or
(3) Reject all bids received on May 30, 2007.

Councilmember Sherman inquired as to the length of time between seeding and growth and Director Thorell stated it took approximately 3 weeks to start growing.
Councilmember Pina made the motion to approve option 3 - approve the contract for the Des Moines Activity Center Project to the lowest bidder, Creative Brothers Landscape Corporation to include the bid amount of $15,453 and Alternate #1 in the additive amount of $4,565 for a total bid of $20,018 plus tax and authorize the City Manager to sign the contract, substantially in the form as submitted. And to authorize the City Manager to approve change orders not to exceed 10% of the total contract amount. Councilmember Scott seconded the motion.

Councilmember Sherman asked if this motion included the sod and Director Thorell stated it did. He then stated he would not be in favor of this motion due to the costs involved.

Councilmember Kaplan inquired as to the amount of un-programmed excess 2006 real estate excise tax was available and Director Thorell stated she did not know. City Manager Piasecki said that he could find out for Council.

Mayor ProTem Thomasson stated that in months previous, a similar motion was made and the point was made that there was no un-programmed excess 2006 real estate excise tax funds as that was actually beginning fund balance. He stated the motion could not be made in the language that it is currently in the motion. He suggested that a second motion be made to change the wording to state it would come out of ending fund balance instead.

Councilmember Kaplan stated that while he agreed it would be nice to do the landscaping, this would be using nearly $22,000 in real estate excise tax while the Council has been discussing using those monies to pay for the Marina Master Plan for public use of such things as sidewalks. He stated he was concerned because anticipated one-time monies may not possibly come in this year and would have an impact on the budget and would be uncomfortable approving this proposal with the budgeting concerns.

Councilmember Scott stated the original discussion involved the area between the Activity Center and the Memorial Park. She stated that the original proposed amount would have been $100,000 and it was her suggestion at the time that it just include the area around the Activity Center, which lowered it to the $20,000. She suggested removing the sod from the contract if it lowered the costs enough to have this pass.

Councilmember Sherman stated he would like to make the motion to amend the original motion for option 3 to leave out the sod and vote for the hydroseed. Mayor Sheckler stated that it would be clearer to amend the motion to vote for option 2 as that is essentially the same. Mayor ProTem Thomasson stated the Council would need to make the motion to switch the motions and then after that to make the motion to approve option 2.

- Councilmember Sherman made the motion to switch from option 3 to option 2 with Councilmember Scott seconding. Motion passed 5-1 with Councilmember Kaplan voting nay.

- After further discussion regarding irrigation costs, the main motion was brought back with option 2 as the recommended alternative. Motion passed 4-2 with Councilmember Kaplan and Mayor ProTem Thomasson voting nay.

- Mayor ProTem Thomasson made the motion to direct Administration to transfer up to $18,000 from the ending fund balance in the CIP in the next available budget amendment which was seconded by Councilmember Scott. Motion passed 5-1 with Councilmember Kaplan voting nay.

- Mayor ProTem Thomasson made the motion to adjourn with Councilmember Scott seconding. Motion passed unanimously.

NEXT MEETING DATE - Regular Council Session, June 28th, 2007.

ADJOURNMENT
At 10:55 p.m., the meeting adjourned.

Respectfully submitted,

Tina R McVey
Permit Technician II
Planning Building and Public Works