REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES October 5, 2006

The regular study session of the Des Moines City Council was called to order at 7:33 p.m. by Mayor Sheckler in the Council Chambers, 21630 11th Avenue South, #B.

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

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott and Dan Sherman. Absent: Councilmember Susan White. Also in attendance were City Manager Tony Piasecki, Parks and Recreation Director Patrice Thorell, Building Official Larry Pickard and City Clerk Denis Staab.

> **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Sherman and passed unanimously, to excuse Councilmember White.

DISCUSSION ITEMS

Award of Bid - Marina Camera Security System

> **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Pina, to approve the agreement with Reliable Security Services for the installation of a CCTV camera security system and authorize payment in the amount of $69,991.95, plus sales tax of $6,159.28, plus a 10% contingency, for a total authorization of $83,766.13, and authorize the City Manager to sign the agreement substantially in the form as submitted. [ED NOTE: See Friendly Amendment below.]
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> City Manager Piasecki informed Council of a potential bid protest about a week ago. He noted that bids were opened on September 14th, and on the 25th of September the City received an e-mail communication from the 2nd low bidder, indicating that he felt he was the lowest "responsible" bidder because the lowest bidder failed to submit 2 required forms. One was called the 'Certification of Non-Segregated Facilities' and the other was a 'Non-collusion Affidavit'. He advised Council that the City Attorney stated the key is whether or not the bidder got a material advantage by not submitting these forms. She made a determination that by failing to submit these forms, which was an oversight on their part as they have signed and submitted the forms, it is not material and therefore it is waivable and the bid can be awarded to this company. He noted there is no federal or state money involved in this project it is all Marina funds. He noted that the person who sent the e-mail indicated he was going to send a formal bid protest by certified mail, and as of close of work today, we have not received anything from him. He informed Council it is his opinion that not submitting the 2 forms with the original bid is immaterial and the City is safe to award the bid to this lowest bidder.
>
> City Manager Piasecki suggested, and it was accepted as a *FRIENDLY AMENDMENT*, to amend the motion to include that the omission of the two documents constitutes an insubstantial variance and that the City accepts the bid from Reliable Security Services, because the variance did not give them an advantage over the other bidders; and given the fact that they have signed and submitted the two documents.
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> Councilmember Scott stated she would like to see a camera that could be used and aimed where the boats go in and out at the Marina. She felt this would help promote people being aware of things.
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> City Manager Piasecki advised that a few years ago we did have a camera above the Marina office that overlooked the guest moorage area. He felt reasonably sure something can be worked out and incorporated into the system.
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> VOTE ON MOTION: Motion passed unanimously.

Draft Ordinance No. 04-197 International Building Code - 1st Reading

> Planning, Building and Public Works Director Fredericks informed Council that the draft ordinance adopts the latest version of the International Building Code, the International Mechanical Code, the International Fire Code, the Uniform Plumbing Code the National Electrical Code and certain provisions of the structural sign code, and some editorial changes to the grading code. He emphasized that this does not introduce any new policies and staff concurs with Council's direction that early next year we will hold a study session to discuss the policy

issues that have been carried over in this new version. He stated that the International Building Code was adopted by the State of Washington in 2004, except for the International Electric Code which is a 2005 version. He advised that the amendments proposed are considered to be non-substantive and housekeeping in nature. He further noted that policies as established by Council in the past, have been carried forward. He proceeded to offer the following in response to questions raised by Mayor Pro Tem Thomasson prior to this meeting:

> *Sections 226 to 242 - Grading Code*: The proposed modifications clarified retaining wall permits, improved readability, deleted antiquated municipal code references, revised sections referring to the Uniform Building code and now refer to the International Building Code, added language to clarify grading exemptions and removed incorrect appeal process language.
>
> *Sections 243 to 251 - Street Names and Building Addresses*: The King County Code has not changed since 1993.
>
> *References to City Officials*: The draft ordinances refers to both Building Official and Code Official. These terms are essentially interchangeable; both terms appear throughout the International Codes.

City Manager Piasecki offered the following in response to other questions raised by Mayor Pro Tem Thomasson prior to this meeting:

> *Section 258 - Effective Date*: The language regarding a five-day effective date was adopted verbatim form the IBC adoption and it is correct. It was noted by applicable case law that this ordinance is administrative and is not subject to referendum.
>
> *Section 254 - Repealer*: The City's Legislative Drafting Standards do require repeal of the underlying ordinances when codified ordinances are repealed. Staff has located a complete listing of underlying ordinances and Section 254 will be revised to list the underlying ordinance that are being repealed.
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> *New Section 2 - Adoption by Reference*: City Attorney has prepared new language which has been incorporated into the latest draft.
>
> *Single Subject Rule Violation?*: City Attorney has ruled no, as this draft has to do with all of the City's building code.

MOTION was made by Councilmember Kaplan, seconded by Mayor Sheckler, to reject the City Attorney's third draft dated September 29, 2006, and recommended amendments, and direct staff to draft an ordinance adopting the International Building Code by reference.

Councilmember Kaplan noted that he is not sure this issue is entirely 'housekeeping'. He expressed concern that this is being rushed and does not understand why. He felt there must be a process we need to go through to get State approval to vary from certain areas and we need to take the time to do so. He felt with budget issues and other important legislation there is not enough time to get this issue reviewed, therefore he feels the best approach is to adopt by reference, and then review in detail next spring when Council has more time.

Mayor Pro Tem Thomasson advised that he is not comfortable with the draft ordinance before Council. He noted his concern is that we are 'replacing the whole kitchen sink, when we just needed to replace the faucet'. He stated he would prefer a separate ordinance dealing with the building code, a separate ordinance dealing with the mechanical code, etc. He noted it is his understanding that the main difference Des Moines' has in the building code is our regulations about sound proofing due to runway impacts. He stated that if the proposed motion is to adopt something for six months, or so, the City would have no sound code in place. He further felt there may be a legal question as to whether the City's sound code means a change to the new International Building Code, as to whether we need state approval. He advised he would be in favor of not adopting the draft ordinance as presented, as he would prefer separate ordinances by subject.

City Manager Piasecki noted the main reason for recommending Council simply repeal all of Chapter 14 and put together a new one, is if it is done by separate ordinances you would have at least a 300 page ordinance and it would be much more difficult to follow. If we had to cross out old language and underline new language being moved, there would be twice as much printing.

One of the main reasons staff is asking Council to adopt all of these Codes is because, while the City is applying them, and they are the rule and the law of the State of Washington, we do not have the ability to enforce them in a manner we think would be efficient and fair to all of those involved. We would have to go through our civil violation process, rather than the civil infraction process which is much more cumbersome and difficult for staff and the permittee. Everything that is in the draft ordinance we are applying to every permit that comes in the door.

Councilmember Kaplan noted he understands, but questions whether everything in the draft should be the law of the land and should be part of the policy discussion that we do not have the time for. While he does not want to jeopardize what we have on the books right now, he has concerns about language being added and taken out, and what he sees as policy related issues are cropping up as amendments. He feels if we are going to have a discussion it should all be done at one time. He felt the best way to do that is by adopting by reference and then go back and address specific concerns that Council has. If it would help facilitate passage to save the noise attenuation standards, then he would be willing accept that portion of the code and adopt the rest by reference.

City Manager Piasecki pointed out that sprinkler issues are also involved. He noted that staff has talked to State staff and have been told the differences that Des Moines' has within its code, including sound attenuation, do not need to be approved once again.

Building Official Pickard reminded Council staff has been working on the draft ordinance for about two years. He advised that this is the largest code revision in the United States and it does look voluminous. He pointed out that work has been correctly done and staff has worked carefully. He noted that as a City we are allowed to be more restrictive, but not less restrictive than the State. He stated the only reason you see items move is because previously they were referenced in Chapter 3 and now they will be in another chapter. He advised that if Council does not move forward and adopt the these codes, it makes it harder for staff to enforce the codes.

Upon questioning by Councilmember Scott, Building Official Pickard assured Council that staff is not trying to change codes, but only to be consistent with State law.

Upon questioning by Councilmember Pina as to what is the rush to adopt, Building Official Packard noted it has already taken 2 years to get to this point and from the City Attorney's standpoint, it is legally easier to defend.

Council Sherman noted the City's current code is based on a code that is no longer the State code. He stated the City is required to follow the State code, even if our Code is more restrictive. He noted the new code contains some differences that could result in potential legal problems if we do not adopt them. He felt that staff has created a document that incorporates the City's former restrictions into the new State code. If Council only adopts by reference we would lose our specific restrictions (sound attenuation, etc.) and that would make no sense.

In response to questioning, Building Official Pickard noted that the Fire Department's policy for fire access road had been incorporated into the draft ordinance, however at the direction of the legal department, has now been removed.

Mayor Pro Tem Thomasson referenced Section 95, Fire Alarm and Detection Systems required for 3,000 square feet, and questioned whether that is currently in the City's code. South King Fire and Rescue Fire Marshall Biesold replied it is not currently, but they are currently enforcing it. Fire Marshall Biesold noted that the agreement between the District and the City appoints the Fire Chief and Fire Marshall of the District, as the Fire Chief and Fire Marshall for Des Moines.

Mayor Pro Tem Thomasson pointed out that Section 95 is not a re-adoption of existing Des Moines' code. He felt this is a policy question that Council needs to address.

Mayor Sheckler expressed concern that there may be more changes like Mayor Pro Tem Thomasson pointed out.

City Manager Piasecki noted by designating the Fire Marshall from the Fire District as the City's Fire Marshall, we have in essence said he has the authority to put together the rules for fire for the City and they are enforceable.

Mayor Pro Tem Thomasson stated he appreciates all the work that staff has done, but feels Council should have been brought on board much sooner and had some discussion about some of the policy issues.

Councilmember Pina called for the question. VOTE ON QUESTION passed unanimously.

VOTE ON MAIN MOTION: Motion failed 3 to 3 with Councilmembers Sherman, Pina and Scott opposed.

MOTION was made by Councilmember Pina, seconded by Councilmember Kaplan, to move this item to a series of work sessions to review a chapter at a time, beginning after the 2007 budget is adopted. Motion passed unanimously.

8:45 p.m. Mayor Sheckler called for a 10 minute break.

2007-2012 Capital Improvement Plan

Parks and Recreation Director Thorell began review of projects contained in the Municipal Capital Improvement Fund as follows with discussion and direction by Council as noted.

- *Activity Center Expansion Project*
  Preliminary Planning 2007
  PE and Construction 2009-2010
  TOTAL: $2,123,921

Consensus of Councilmembers was the City's focus should on the Beach Park, especially existing facilities such as the auditorium and dinning hall.

- *Des Moines Beach Park Rehabilitation - Auditorium*
  2007 Design & Improvements
  TOTAL: $930,835

Councilmember Sherman pointed out that the Capital Improvement Fund and the City's operating budget are two different budgets and that the funds used for capital improvement like the Real Estate Excise Tax (REET) can only be used for capital projects. He also noted that the CTED money is economic development money that is appropriated by the State, by request, just for a specific project and normally have a time limit to be spent and cannot be used for another project.

Mayor Pro Tem Thomasson stressed the need to show the prior year expenditures, so that the total project amount tracks, as in this case it looks like $930,835 when in fact it is almost a $1.2 million project, because of funds already spent.

- *Des Moines Beach Park Rehabilitation - Dining Hall*
  2007 Design Engineering & Permitting Expenditures $1,139,226
  2008 Expenditures $697,756
  TOTAL: $1,836,982

Concerning the Park In-lieu fees ($100,000), Mayor Pro Tem Thomasson advised he has a philosophical problem with spending the 'land money' on buildings. He noted park in-lieu fees were meant to be spent on land acquisition and on activities. He felt it is a policy question that should a development in Redondo pay in-lieu fees, should that be spent on a local Redondo park as opposed to being put into one facility. He felt discussion needs to occur regarding specific collection of these fees and where is it appropriate to allocate those fees. He questioned where the $100,000 is coming from and whether this is an appropriate project to spend this money on.

After further discussion regarding Mayor Pro Tem Thomasson's point, City Manager Piasecki advised that staff can prepare a list of projects that it is anticipated will be providing Park In-Lieu fees, and using a formula, show how much is based on square footage of park to be acquired, and the amount of the improvements.

- *Des Moines Beach Park Rehabilitation - Picnic Shelter/Restroom Building(Mothball)*
  2007 Design/Engineering - Repair Fireplace & repair Shelter
  TOTAL: $195,902

Mayor Pro Tem Thomasson asked if we do the dinning hall and its restrooms well, should we mothball the restrooms or remove them. Parks & Recreation Director Thorell noted that the picnic shelter and the restrooms are actually two different buildings. She also pointed out that there would be a problem tearing down the restroom as it is a historic site in a historic district.

- *Des Moines Beach Park Rehabilitation - Sun Home Lodge*
  2007 Design Engineering Construction
  TOTAL: $315,730

Parks & Recreation Director Thorell advised the proposal would be to use this facility as an auxiliary building to support the auditorium and other facilities by providing ADA accessible restrooms and improve the kitchen into a catering kitchen area, improving rooms to facilitate meeting rooms. This would also include fire suppression, improve the exiting, stairways and decking.

Mayor Pro Tem Thomasson noted there has been no formal adoption by Council as to whether this building should be used as a support building. He questioned how to formally document the plans for this facility.

Parks and Recreation Director Thorell advised that her proposal is based on the needs and requirements that have been determined for the use of the auditorium. However, there is no intent to limit the potential uses of this building on its own.

Mayor Pro Tem Thomasson advised that Council has not really had a conversation concerning alternative uses. He noted there is a kitchen in the dining hall and he does not know if we need two kitchens.

Councilmember Scott stated that the two bathrooms that are in the Lodge could be made accessible pretty easily to supplement the bathrooms in the auditorium, which would be needed if there were meals being served, or a function where a large number of people may gather.

Councilmember Sherman felt the changes need to be made to the facility to make it usable. He noted Council has made the decision to rehabilitate and we need to put our efforts and focus on the Beach Park. He would like to remove the Activity Center expansion and the soccer fields at Underwood Memorial Park. He stated he is particularly looking at projects funded by REET as those funds could be used for streets. He felt Council needs to move forward with the Beach Park projects.

City Manager Piasecki pointed out the total amount funded by REET for 2007 is $2.1 million with $480,000 transferred to the Arterial Street Fund. He noted the $1.2 million represents the total amount that the City expects to receive in REET funds each year and the beginning balance was $893,141.

Councilmember Pina remarked that the City has a long list of needs for roads and expressed concern we are moving too fast on Park projects, rather than maintaining the rest of the City.

Councilmember Scott agreed a large portion is being spent in 2007 to rehab the Beach Park buildings so they will become available and start earning money. However, she noted beginning in 2008 and following years, streets will get increasingly larger amounts.

After further discussion, **MOTION** was made by Councilmember Sherman, seconded by Councilmember Kaplan, to eliminate from the Municipal Capital Improvement Plan the Activity Center Expansion and the soccer fields at Steven J. Underwood Memorial Park to start freeing up money that could be used for roads beginning 2009.

Councilmember Sherman stated the City must keep the streets repaired and resurface them on a timely schedule or we will be faced with much greater expenses to replace them.

VOTE ON MOTION: Motion passed unanimously.

In response to Mayor Pro Tem Thomasson's request, City Manager Piasecki stated staff will furnish Council with a list of projects that will be coming before Council, with approximate amounts of Park In-lieu fees that are expected to be generated, and what areas they are located in. He also noted there are some projects that will not need Council approval, and those can be listed also.

Mayor Pro Tem Thomasson felt that if we know where the Park In-lieu fees are coming from then that is the neighborhood they should be spent in.

Councilmember Scott suggested that when a new plat is required to install a park, instead of the City owning it, the home owners should own it and be required to pay for its upkeep. It was noted this is a policy issue and should Council desire this, then a code change would be needed.

After further discussion, **MOTION** was made by Councilmember Pina, seconded by Councilmember Kaplan, that through the year 2012 that the acquisition and development of parks (Midway and Zenith) be taken out of the CIP until the City's road maintenance is in balance. Motion passed unanimously.

Parks and Recreation Director Thorell requested Council reconsider Midway Park next year as this is one of the least served neighborhoods in the City, noting we are about 14 acres behind in that area. She felt this may be a good project and use for Park In-lieu fees.

Councilmember Sherman noted in regards to the four projects that have been removed this evening, Council is not saying they are bad projects. It is more a matter of the City's funding situation, it is unrealistic to keep these projects in this plan. He also noted part of the problem is the funding sources, that could be used for other projects.

- *Des Moines Field House Exterior Renovation*
  2007 Log Restoration & Chinking
  TOTAL: $121,498

Upon questioning, Parks and Recreation Director Thorell stated that there are always ongoing maintenance issues, but in the next few years this should be the last major issue.

Councilmember Thomasson voiced support for this project, but questioned whether we could apply for Community Development Block Grant Funds (CDBG). Parks and Recreation Director Thorell informed Council this particular project is no longer eligible for CDBG funds, however she noted that we could apply for State funds next year. She also noted she would apply for any grants that may become available.

Councilmember Scott stressed the importance of maintaining this structure to prevent future damage.

Mayor Sheckler requested staff actively look for grant funds which would help free up REET monies.

- *Steven J. Underwood Memorial Park*
  2007 Complete Landscaping & Irrigation, Complete Rear Yard at Activity Center
  TOTAL: $93,804

  2008 Complete Parking Lot Expansion
  TOTAL: $130,000

Parks and Recreation Director Thorell advised that per City Code there is a need to landscape the fence line, planting turf and installing irrigation.

Councilmember Scott stated she would only like to see the area around the Activity Center patio improved. An area larger than that, she felt, would only add more maintenance while expending a large amount of funds.

City Manager Piasecki reminded Council that to improve the area around the patio using hydro-seeding would cost $21,000, if we use sod it would be $37,000.

Mayor Pro Tem Thomasson voiced the opinion that Council needs to set an example of what to do and follow our own Code. However, he felt there should be a way to approach the improvements more economically.

10:28 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Pina, to extend the meeting to 10:45 p.m. Motion failed 4 to 2 as it requires a super majority vote, with Mayor Pro Tem Thomasson and Mayor Sheckler opposed.

- *Park and Playground Repair and Replacement*
  2007 Field House Park, Wooton Park, Parkside Park and Cecil Powell Park
  TOTAL: $222,662

Mayor Pro Tem Thomasson stated he would prefer to see these Parks listed as separate projects so they can be dealt with independently. He pointed out that he can see the need for netting around the Field House ball fields, but not a need to grade the hillside and expand.

10:30 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Sherman to extend the meeting to 10:45 p.m. Motion passed 5 to 1 with Mayor Sheckler opposed.

Mayor Pro Tem Thomasson stated he would favor removal of the entire project so that each Park can be put back as an individual project.

Mayor Pro Tem Thomasson stated there are urgent safety needs, such as the baseball netting.

Parks and Recreation Director Thorell stated the play equipment at the Field House is also a safety issue. She referenced the wood structure (boat) as deteriorating. She also felt that the baseball backstop and the dugout area are of concern. These items need to be included in order to be eligible for grants. She advised that grading the hillside could be taken out.

It was pointed out that the $30,000 for replacing the lights at Wooton Park listed for 2006, should actually be 2007. City Manager Piasecki reminded Council that staff is still looking into replacement lighting with Puget Sound Energy that could result in some cost savings.

Councilmember Kaplan stated he is comfortable leaving this as one project. He noted several of the Parks are scheduled in the future and are more of a placeholder.

It was consensus to move forward as the next several projects are far enough in the future, that they can be discussed another time.

- *Park & Recreation Master Plan Update*
  2008
  TOTAL: $25,000

Parks and Recreation Director Thorell noted the plan was last updated and adopted in 2003. She advised that it is required to be updated every six years in order to qualify for State funding.

MOTION was made by Mayor Pro Tem Thomasson, seconded by Councilmember Kaplan, that this project should not be funded through the Capital budget. Motion passed unanimously.

- *Des Moines Creek Trail Waterfront and Downtown Connection Project*
  2007 Design & Construction
  TOTAL: $965,096

City Manager Piasecki reminded Council that Federal Funding is currently marked by Senator Murry, but the Federal Government has not finished their budget process.

- *Storefront Studio Project/Waterfront Distrtict*
  2007 Design/Engineering and Improvements
  TOTAL: $72,925

10:45 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Scott, to continue the meeting to 10:50 p.m. Motion passed 5 to 1 with Mayor Pro Tem Thomasson opposed.

Upon questioning regarding the scope of the project, Parks and Recreation Director Thorell stated it is not completely known at this time, but will be looking at entryway signs, welcoming people to the Waterfront District Downtown Area, way-finding signs, potential signage on the Highway to downtown and a pilot project with way-finding kiosks. This is designed to make Des Moines a more walkable, pleasurable and interesting place.

Mayor Pro Tem Thomasson noted he is not in favor of spending this much money on signs in the downtown area. He requested staff find a way to make this more cost effective.

MOTION was made by Mayor Sheckler, seconded by Councilmember Kaplan, to approve the expenditure for the Waterfront District Entry Signage for $72,925.

Upon questioning, Parks and Recreation Director Thorell noted that the entire plan will be brought before Council for approval before the funds are spent.

VOTE ON MOTION: Motion passed 5 to 1 with Mayor Pro Tem Thomasson opposed.

City Manager Piasecki proceeded to review the next two items as follows:

- *Planning, Building & PS Re-organization/Employee Relocation, Interior Upgrades*
  2007 Design/Engineering and Improvements
  TOTAL: $84,400

- *City Hall Parking Lot*
  2007 Design of Overlay & Re-stripe
  TOTAL: $23,100

MOTION was made by Councilmember Pina, seconded by Councilmember Sherman, to approve both projects listed by the City Manager. Motion passed 5 to 1 with Mayor Pro Tem Thomasson opposed.

NEXT MEETING DATE

Mayor Sheckler noted the next regular meeting is October 12, 2006.

ADJOURNMENT

At 10:50 p.m. meeting adjourned as time expired.

Respectfully submitted,

Denis Staab
City Clerk