REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES November 8, 2001

The regular meeting of the Des Moines City Council was called to order by Mayor Thomasson at 7:30 p.m. in the Council Chambers, 21630 11th Avenue South, Suite B.

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

ROLL CALL - Present: Mayor Scott Thomasson, Mayor Pro Tem Bob Sheckler, Councilmembers Terry Brazil, Dave Kaplan, Dan Sherman, Gary Towe and Don Wasson. Also present were City Manager Bob Olander, Assistant City Manager Tony Piasecki, City Attorney Gary McLean, Community Development Director Judith Kilgore, Senior Planner Robert Ruth, Finance Director Scott McCarty, and City Clerk Denis Staab.

COMMENTS FROM THE PUBLIC

Clark Snure, 612 South 227th Street, Des Moines Legacy Foundation Community Center Capital Campaign Chairman

Mr. Snure briefed Council on the successful fund raising Bay Side Brunch held last Sunday at Anthony's Homeport in Des Moines. He noted the brunch and auction had an attendance of 147. He thanked Anthony's staff for volunteering their services. He advised Council that after expenses, between $22,000 and $23,000 will be raised. He remarked this is a good first step and thanked all those who participated in this effort to raise funds for a new Community Center.

BOARD & COMMITTEE REPORTS

Municipal Facilities Committee

Councilmember Towe advised that the Committee is currently reviewing the Marina Master Plan Dry Shed concept options. He noted that the next step will be to solicit community input, before final recommendations will be solidified.

Association of Washington Cities

Councilmember Brazil informed Council that he recently attended a meeting of regional cities held in Kent. Main topics included financial impacts of I-747, water and transportation issues. He also noted that most likely that the Governor will not release 2003 back-fill funds from the I-695 impacts. He stated that he had more detailed written material for review if any Councilmember was interested.

Controversial Campaign Flyer

Regarding a recent flyer that was distributed to local businesses and citizens over the week-end, Councilmember Sherman stated he found it disturbing. He felt that citizens should not have to receive the kind of material that was in this particular flyer. He has asked the City's legal and law enforcement departments to investigate whether any Federal or State criminal statues may have been violated.

Councilmember Brazil added that he felt embarrassed for the citizens, himself and his family, and he felt the flyer was disgusting and vile. He stated that the people who did not have the nerve to sign the flyer ought to feel like the low life that they are.

Councilmember Kaplan remarked that political speech is free, but it is not without responsibility. He requested that the anonymous writer(s) of this flyer come forward and acknowledge their responsibilities. He felt it was one of the most disgusting pieces of literature he has seen during a political campaign.

Mayor Pro Tem Sheckler felt the unknown individual(s) responsible for this flyer are cowards. He hopes that the author becomes known.

ADMINISTRATION REPORTS

Meeting Regarding Financial Impacts of I-747 and I-695

City Manager Olander announced that he will be attending a meeting with Governor Locke and some other elected officials, on behalf of Councilmember Brazil, to discuss issues such as I-747. In particular discussions will be held regarding the I-695 backfill, which may go away in the year 2003, and the heavy financial impacts to local cities.

Controversial Campaign Flyer

City Manager Olander remarked that in his 25 years of public service, he has never seen anything as vile and despicable as that piece of literature that was circulated in the community. He agrees it was cowardly and whoever did this should have the courage step forward and take responsibility either morally, legally or ethically to what they have done. He further advised that in all respects the current Councilmembers have always worked at the highest standards and are among the best he has worked with. They are not in office for the money, they put in long hard hours and take lots of abuse. He remarked that the spreading of such lies is dangerous to democracy. We may disagree, but we ought to respect other peoples opinions, and respect those who serve us. He encouraged anybody who has knowledge or information as to who created this flyer, or distributed it, to step forward and contact the Police Department.

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the minutes of October 18 and 25, 2001.
2. Findings: Vouchers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.080, have been recorded on a listing which has been made available to the City Council.

    Motion: As of this date the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the above list and further described as follows:

        Claim checks #78581 through #78776 & electronic fund transfers in the total amount of $403,588.05

        Payroll fund transfers in the total amount of $281,174.01
3. Motion is to authorize the City Manager to approve all vouchers for payment of the following claims during the period of November 9, through November 22, 2001:

    a. All vouchers for payment of payroll checks, including Marina payroll, and

    b. All vouchers for payment of claims and Marina checks, provided that all vouchers and checks approved by the City Manager in accordance with this motion shall be presented at the December 13, 2001 meeting.
4. Motion is to purchase 485 square feet of land with improvements from Ronald and Thomasine A. Morris in the amount of $9,715 plus closing costs, and further to authorize the City Manager to sign the Purchase and Sale Agreement substantially in the form as submitted.

MOTION was made by Councilmember Sherman, seconded by Councilmember Kaplan and passed unanimously, to approve the Consent Calendar as read.

PUBLIC HEARING

Draft Resolution No. 01-175 ***[ASSIGNED RESOLUTION NO. 918]*** PUD and Related Subdivision - "Saltwater State Park" - 6 Single Family Residential Lots - File #LUA2001-010

Community Development Director Kilgore advised Council that this has been one of the most complex projects she has had to work on. She noted it was a challenging balancing act to review Growth Management Act requirements to increase density, while providing protection to the environmentally sensitive areas contained within this property. She noted that this project can create a unique neighborhood with buffers to protect the steep ravine and stream. She concluded by noting that the Planning Agency has reviewed the project and has recommended that the park in lieu of fees be reduced.

Senior Planner Ruth located the subject property at the 25300 block of 16th Avenue South, noting that it is heavily wooded and environmentally sensitive with a creek and a steep ravine. While displaying the proposed lot map, he noted that only two of the plat's nine acres are being proposed for development. He advised that while Des Moines Municipal Code would allow for the development of up to twelve units, the applicant has chosen to only develop six lots. He advised that the applicant is proposing to deed the remaining seven and half acres to the City. He informed Council that the Planning Agency recommends approval of the proposal with two extra conditions: 1) to submit a street-side landscape plan for review and approval and install planting, and 2) reduce the in lieu park fee by 50%.

Mayor Thomasson declared the public hearing open and called upon City Attorney McLean to explain the rules for conducting the hearing.

City Attorney McLean after explaining the rules for the hearing, questioned how many individuals in the audience wished to testify. Five individuals raised their hands and City Attorney McLean administered an oath to testify to the truth.

City Attorney McLean advised that the Hearing is Quasi-judicial in nature and explained that the Appearance of Fairness Doctrine applies. He inquired of Council as to whether any potential conflicts existed and there were none.

PROPONENTS:

Tenley Tobin, 19612 NE 125th Court, Woodinville, WA, Owner

Ms. Tobin stated that her family has owned the property for 20 years. She advised Council that she had offered to sell the land to the State as a natural expansion of Saltwater State Park, but the State declined due to lack of funds. She informed Council that she is willing to dedicate a large amount of land to the City for park purposes and a level 2 storm water detention plan will be installed. She felt that although the property could support a more dense development she would prefer the six building sites to create a unique quality single family neighborhood, in a beautifully natural wooded area. She introduced her architect Mr. Bierly and her engineer Mr. Deaver.

John Bierly, 1420 5th Avenue, Seattle - Project Architect

Mr. Bierly reiterated the uniqueness of the site and distributed colored photos noting existing trails near McSorely Creek and easily access to Saltwater State Park. [ED NOTE: Photos were marked as Exhibits 1 and 2.] He advised Council that more than adequate setbacks and buffer areas have been incorporated and distributed a small scale drawing deplicting same. [ED NOTE: Entered into the record as Exhibit 3.

Craig Deaver, CES NW Inc., 5308 12th Street East, Fife, WA - Project Engineer
Mr. Deaver reviewed the storm water retention tract and the formula that was used for averaging the buffer zones.

OPPONENTS:
Sandy Scniferl, 1714 South 254th Place
Ms. Scniferl advised that she has lived directly east of the site for 11 years and stated her objection to the development is selfish as she enjoys the beauty of the naturally wooded area. She informed Council that there are very steep slopes that are not stable. She expressed concern that trees would be removed from buffer areas which would effect the wide variety of birds in the area and may create potential negative impacts to the stream.

PROPONENTS REBUTTAL:

John Bierly, Architect
Mr. Bierly informed Council that Ms. Scniferl's objections are the very first they have heard. He advised that careful soil studies have been conducted and that the 35 foot setback from all banks is very definitive and clear.

Tenley Tobin
Ms. Tobin emphasized that they have no intention of disturbing the natural habitat. The project has met all City Codes and assured Council that habitat in the buffer zones will not be disturbed.

As there were no further speakers, Mayor Thomasson questioned staff as to any misstatements of fact or additional information they may wish to address.

Community Development Director clarified that Ms. Tobin and referenced comments from Councilmembers, when in fact she meant Planning Agencymembers.

Senior Planner Ruth stated that there is no dispute that steep slopes exist. However, detailed soil engineer geo tech surveys have shown that there will be no jeopardy to the area. He assured Council that all buffer areas will remain in a natural state.

Upon questioning by Mayor Thomasson regarding slides, City Attorney McLean stated that the City will not assume any risk associated with development on this parcel whatsoever. The applicant will rely on the expertise of the experts they hired to review and determine whether the development can go forward as proposed and what precautions they deem are necessary. It is the developer's obligation to comply with every recommendation of their hired experts that conform to our Code, and subject to certain limitations and conditions that are contained in the Resolution and Findings.

In regards to the dedicated land area to the City, City Attorney McLean advised that if the land is left in its natural state the City would not be responsible for any natural occurring shifts in the soil. It was noted that this partial will be dedicated as a "Critical Area Easement" which ensures that it will not be disturbed.

Upon questioning by Council, Senior Planner Ruth assured that requirements are in place for erosion control measures to keep any sediment from entering the stream area.

Mayor Thomasson closed the Public Hearing.

MOTION was made by Mayor Pro Tem Sheckler, seconded by Councilmember Wasson, to adopt Draft Resolution No. 01-175 with Section 3(5) being modified to read that in recognition of the dedications provided under the text of the resolution, any in lieu of park fees shall be waived as to this development. Also, amend Section 3(7) to read: "The rear yard setback for lot 6 (the setback adjacent to the lot's east property line) is shown as 5 feet, but should be revised to reflect a 20 foot setback." and STRIKE the first sentence.

MOTION was made by Mayor Thomasson, seconded by Councilmember Kaplan, to amend Section 3(3) to insert into the second sentence, between the words "dedication" and "prior": *plus adequate dedication to accommodate a 25' radius for South 252nd Street*. Motion passed unanimously.

8:54 p.m. Mayor Thomasson declared a 10 minute break.

MOTION was made by Mayor Thomasson, seconded by Councilmember Sherman, to amend the resolution to read that Tract A shall be "deeded" instead of dedicated. Furthermore that the resolution be amended to add after Section 3(4) new paragraph Section 3(5) to read: "To satisfy the requirements of DMMC 18.86.110, Subsection 1, the applicant shall have the option of deeding environmentally sensitive areas to the City in a form as approved by the City Attorney." [ED NOTE: Other subsections would be renumbered.] Motion passed unanimously.

Mayor Thomasson read the draft resolution by title into the record.

VOTE ON MAIN MOTION: Motion passed unanimously.

OLD BUSINESS

Controversial Campaign Flyer

Councilmember Towe noted that he had not intended to speak on this matter, as he felt it really warranted indifference. He felt that the type of people who would have written this represent a vast minority of the people who live in this community. He stated this type of material may anger, shock and embarrass, but this type of lunatic fringe are basically talking to themselves. He felt this flyer hurt people who deserve better and was thankful he found it before his children did. He advised that there is a line of responsibility and accountability and this individual(s) has crossed over it. He stated that he hopes the community finds out who is responsible and that they be held accountable and if they have businesses, don't do business with them. If they are involved in our youth sports or schools, to try to deny them that kind of influence. He concluded by noting that the individuals named in the flyer are hard working, conscientious, dedicated and committed individuals to make this a better City for everyone.

2002 Preliminary Budget Issues

Finance Director McCarty continued to review the Preliminary 2002 Budget, briefing Council on the following:

Equipment Replacement Fund - Assessment Reduction and Replacement Projections

The fund accumulates financial resources necessary to replace vehicles and equipment with a value greater than $5,000. With the use of a graph, Finance Director McCarty noted given the December 31, 2001 cash available balance of 1.0M and the annual assessment and replacement assumptions, all existing equipment will be replaced during the period 2002-2012+. He noted that all assumptions must be reviewed annually.

2002 Equipment Replacement List

Staff is recommends replacing ten pieces of equipment at a net cost of $358,000. The funding is available in the Equipment Replacement Fund. The replacement is warranted based on age, condition, mileage, use by another department, efficiency, and effectiveness. Department transfers will be done so that when a new car is placed in service, the transferred vehicle will be moved to where it will be the most effective.

POLICY ITEMS:

Property Tax

Staff recommended and COUNCIL CONSENSUS, was to increase property taxes by one percent of the prior year amount or the implicit price deflater, whichever is less.

Allocation of Operating Fund, Unreserved, Unrestricted Fund Balance of $1.3M

Staff recommended and COUNCIL CONSENSUS, was to expended the $1.3M as follows:

Payoff Airport Defense letter of Credit due 12/1/01	$925,000
Airport Defense 2002 Legal Expenditure Supplement	200,000
Reduce Airport Defense Fund Loan from Revenue Stabilization Fund	175,000
TOTAL	$1,300,000

Marina Moorage Rate Increase

A 3.6% rate increase to regular, overnight, and winter moorage represents the Consumer Price Index, All Urban Consumers, Seattle-Tacoma Bremerton, for the twelve months ending August 31, 2001. COUNCIL CONSENSUS was to accept this increase.

Unemployment Compensation Fund Assessment Rate

Staff recommended and COUNCIL CONSENSUS, was to reduce the rate from 0.73% to 0.50% of gross payroll.

Arterial Streets CIP

Finance Director McCarty noted that while working on Councils request for another $300,000, staff discovered an error which creates a capacity for a portion, but not all of this amount. To create the remaining capacity, staff recommends taking out a 20-year Public Works Trust Fund loan of $800,000 to finance the City's portion of the 16th Avenue South improvements, South 260th Street to South 272nd Street. These types of loans are low interested and available for this type of construction and the rate will vary from 1% to 3%, depending on the City's share of the total project cost. COUNCIL CONSENSUS was to accept staff's recommendation.

Councilmember Kaplan advised that by 2003 the City could be facing a $1.5M shortfall. He noted the City has limited growth in revenues while experiencing growing employee benefit costs. While he realizes there is no easy way to make cuts, he strongly encouraged Council to consider placing a Parks and Recreation District to the voters. He felt it is important to move on this now and not wait a year to consider shifting existing services.

City Manager Olander agreed discussions need to start and he suggested the first quarter of next year would be adequate lead time. He noted that staff will prepare other options for study and discussion. He felt it will be important to have a plan in place, but do not need to make wholesale cuts or changes at this point.

Mayor Pro Tem Sheckler commented that he would not be in favor of creating a contingency plan now, but is willing to look at options early next year.

Mayor Thomasson expressed some agreement with Councilmember Kaplan, but would rather look at the various options during January and February study sessions

Councilmember Towe felt it is important to wait until further decisions are made as a lot can happen between now and next year. He reminded Council that there may be potential legal challenges that could effect the financial impacts.

Controversial Campaign Flyer

Virg Staiger, 27011 8th South

Mr. Staiger read a statement concerning the unsigned flyer recently distributed to businesses, resident mailboxes and newspaper boxes. He felt the piece maliciously and cowardly attacked the character of individuals currently serving, or wishing to serve, the Des Moines community through city government services. He felt the accusations and much of the language used in the flyer were gross. He stated he hopes the responsible person(s) are found out. He concluded by noting that we should appreciate the commitment made by those who strive to make the community better by serving in the political arena, as community organization volunteers, and staff members, even if we disagree with them at times.

NEXT MEETING DATE

Mayor Thomasson announced that the next regular meeting will be November 15, 2001.

ADJOURNMENT

The meeting adjourned at 10:28 p.m.

Respectfully submitted,

Denis Staab
City Clerk