PRELIMINARY
REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES November 30, 2006

The regular meeting 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.

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, Dan Sherman and Susan White. Also in attendance were City Manager Tony Piasecki, Acting City Attorney Richard Brown, Land Use Planner I Jason Sullivan, Development Services Manager Robert Ruth, Park and Recreation Director Patrice Thorell, Court Administer Jennefer Henson, Finance Director Paula Henderson, and Deputy City Clerk Angela Chaufty.

COMMENTS FROM THE PUBLIC

Nancy Warren, 1305 South 223rd

On behalf of the Arts Commission Steering Committee, Ms. Warren urged Council to adopt the draft ordinance establishing an Arts Commission. She thanked Council for the funding consideration and expressed hope that funding would move toward the goal of $1 per capita for arts.

BOARD & COMMITTEE REPORTS AND COUNCILMEMBER COMMENTS

Snow Storm Assistance

Councilmember Scott said that she had been stranded at the Kent-Des Moines Park and Ride due to the snow. She thanked the Des Moines' resident who volunteered his services and assisted her in getting home that evening.

Garbage Pick-up

In response to Councilmember Pina's questioning, City Manager Piasecki confirmed that the garbage pick-up scheduled for last Tuesday and Wednesday would be deferred one week due to the snow. The recycling would be picked up the next regularly scheduled recycling pick-up day.

Councilmember Pina recommended that Council consider this situation when the contract is re-negotiated.

Police Response to House Break-In

Councilmember Pina commended the Police for their quick response to his son's house when it was broken into.

McLean Property

Councilmember Pina said that he had received several e-mails regarding Mr. McLean's property.

MOTION was made by Councilmember Pina and seconded by Councilmember White to recognize that the State approved Building and Fire Code are effective in the City of Des Moines and to direct staff to refrain from seeking to impose any requirements or development regulations that differ from the State approved code until they have been approved by the City Council.

Mayor Pro Tem Thomasson suggested that Council review the Fire District's agreement again as several items may need to be addressed.

Councilmember Sherman said that Council may have given the Fire Department authority for certain functions. He noted that the rules in place at the time of Mr. McLean's application would prevail.

Mayor Sheckler said that he would abstain from the vote as he wanted more time to study the issue.

Mayor Pro Tem Thomasson stated that the City had adopted street and access standards. He wished to clarify that the Fire Department did not set policy but applies policy established by Council.

Councilmember Kaplan said that he would not support the motion as it was too broadly worded. Code changes require a thoughtful process and the motion would shortcut the process.

Councilmember Pina said that if the Code was not adopted by Council and staff was not following State Code, then staff was acting inappropriately.

Councilmember Scott stressed that the Code should be fairly and uniformly applied. She would not support the motion as she felt more communication with the Fire Department regarding the issue was necessary.

City Manager Piasecki informed Council that he had asked outside counsel to prepare a legal opinion regarding the agreement's authority and current city codes. He expected to receive a draft of the legal opinion by December 4, 2006. City Manager Piasecki noted that building permits were administrative functions.

VOTE ON MOTION: Motion failed, 2 – 4, with Mayor Pro Tem Thomasson and Councilmembers Kaplan, Scott, and Sherman opposed. Mayor Sheckler abstained from voting.

Councilmember White said that the permitting system should be continually improved so that people know what to expect.

Safety Alert

Councilmember White reminded the public to be aware of their surroundings and to protect their valuables.

Senior Services Advisory Committee

Councilmember White reported that the Bayside Brunch had raised $28,000 for Senior Services and $4,900 for youth scholarships. The Senior Center would be closed December 18 – 31, 2006 as the floors were going to be redone. Anyone interested in participating in an After School Program at Pacific Middle School should contact Kaylene Moon at 206-824-1764.

Suburban Cities Association

Councilmember White noted that the meeting had been cancelled due to the weather. The next meeting was scheduled for December 11, 2006. She encouraged Councilmembers to contact her if they were interested in serving on the Board of Directors.

Municipal Facilities Committee

Councilmember Sherman announced that the committee would continue discussion of the Tillicum Village proposal at their meeting next week.

Weather Damage Report

Councilmember Sherman asked staff to provide a preliminary report concerning storm damage.

Environment Committee

Mayor Pro Tem Thomasson reported that the committee had continued review of the proposed Sensitive Areas Ordinance. A briefing regarding the subject was scheduled for the December 14, 2006 Council meeting.

Fire Department Agreement

MOTION was made by Mayor Pro Tem Thomasson and seconded by Councilmember Pina to bring back the Fire District agreement to re-evaluate those paragraphs and revise those sections of delegated authority to the Fire Department.

As Council is the governing body, Mayor Pro Tem Thomasson said that Council should set the standards and the fire department should provide an advisory role.

VOTE ON MOTION: Motion passed unanimously.

Mayor Sheckler said that the item would be on the next meeting's agenda.

ADMINISTRATION REPORTS

Mediterranean Heights Development

City Manager Piasecki informed Council that the Mediterranean Heights Development agenda packet was available. Council should submit any questions or concerns to Planning, Building, and Public Works Director Fredricks.

Des Moines Creek Business Park EIS Public Hearing

City Manager Piasecki announced that a public hearing regarding the Des Moines Creek Business Park EIS would be conducted December 5, 2006 in the Council Chambers. As the matter was a quasi-judicial issue, he advised Council to refer any inquiries regarding the EIS to staff.

CONSENT CALENDAR was read by Deputy City Clerk Chaufty

1. Motion is to approve the special minutes of October 14, the regular minutes of November 2, and the special and regular minutes of November 9, 2006.
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 #106659 through #106861 & electronic fund transfers in the total amount of $805,712.32

Payroll fund transfers in the total amount of $283,287.19

3. Motion is to authorize payment of registration and travel expenses for Councilmember White to attend the National League of Cities Conference in Reno, December 5-9, 2006.

4. Motion is to authorize the City Manager to sign the continued enrollment authorization to continue participation in the Association of Washington Cities Workers' Compensation Group Retro Program.

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

CONTINUED PUBLIC HEARING

Draft Resolution No. 06-224 Blueberry Lane Planned Unit Development Subdivision

Mayor Sheckler re-opened the public hearing.

Land Use Planner I Sullivan noted that staff was available to answer any questions.

Mayor Pro Tem Thomasson said that the sewer and water districts should have reviewed the project and submitted their recommendation prior to this point in the process so that the information would have been available to Council.

To focus the discussion, Land Use Planner I Sullivan distributed a list of seven sample motions to Council.

Mayor Sheckler said that the issue should not be brought back to Council as a consent calendar item.

Councilmember Scott questioned whether the narrow lots with five foot side-yards could have zero side-yard on one side and ten feet of side yard on the other as this layout would provide more usable space.

Land Use Planner I Sullivan confirmed that it was possible to create reciprocal side-yard easements.

As the residents would have no room for play areas in their yards, Councilmember Scott recommended that a playground be constructed in the development.

Based upon the City's ability to maintain a park appropriately, Land Use Planner I Sullivan explained that the Comp Plan directed the City to only accept park areas of at least 0.5 acre. The PUD would have almost one acre of passive recreation space.

Councilmember Scott suggested that the playground be the responsibility of the homeowner's association rather than the City. She recommended that the park-in-lieu fees be used to develop amenities for the neighborhood children.

MOTION was made by Councilmember White to amend condition #3 of the original conditions of approval in the following manner:

> The applicant shall pay the required park in lieu fee in the amount to be determined at the time the applicant files for final plat approval. The fee will be based on an appraisal submitted by the applicant for the value of land and the square footage development rate at the time of final plat. The fee shall be paid prior to recording of the final plat.

Development Services Manager Ruth said that if Council felt it had received all the information needed, the public hearing should be closed. If more information was desired, the hearing should remain open.

Councilmember Kaplan **seconded the motion**.

Upon questioning from Mayor Pro Tem Thomasson, the applicant said that he had not seen the sample motions. He asked for time to review them.

Councilmembers White and Kaplan **withdrew their motion**.

At 8:45 p.m., Mayor Sheckler declared a ten-minute recess.

Phil McCullough, architect for the proposed PUD, informed Council that the applicant was comfortable with all the sample motions except for No. 3. As they did not wish to encourage parking on the alley lots, he proposed that the driveway aprons either be equal to or greater than ten feet or less than or equal to sixteen feet. Mr. McCullough noted that each lot was designed with a two-car garage. He highlighted areas for guest parking on the map of the proposed development.

Applicant Rick Williams said that he had no problem putting playground equipment by Lot 20.

Councilmember Scott said that the park could be owned and maintained by the homeowners.

Mayor Sheckler closed the public hearing.

MOTION was made by Mayor Pro Tem Thomasson and seconded by Councilmember White to approve all items on the yellow sheet as presented to Council with the exception of No. 3 which should now read "all lots shall have a minimum 16 foot deep drive as measured from the property line except that lots on alleys may have driveways ten feet deep."

Councilmember Sherman said that the twenty foot setback should be honored for adjacent land owners.

MOTION was made by Councilmember Scott and seconded by Councilmember Kaplan to amend the motion in order to require the applicant to place playground equipment in the location of his choice to be maintained by the homeowners and to reduce the park in lieu fees by the cost of the playground equipment.

Mayor Pro Tem Thomasson said that he did not want to place the city in the position of enforcing the replacement of the equipment. He recommended that the money be put toward a city park. Mayor Pro Tem Thomasson recommended that the playground area be left under the control of the homeowners.

Councilmember Pina agreed with Mayor Pro Tem Thomasson.

Councilmember Scott clarified that her motion did not intend to create City responsibility. Rather, she wished to create a safe place for children and a central gathering spot for the community.

Mayor Pro Tem Thomasson said that he could support the motion if it was clear that there was no requirement for the park to be continued. He said that Council might wish to limit the reduction of the park in lieu fee.

Park and Recreation Director Thorell estimated that play equipment could be placed on the small lot for approximately $20,000.

Councilmember Scott said that the placement of the play area would be determined by the applicant. If he wanted to use the smaller lot, it was okay with her.

Councilmember Scott **re-stated her motion** as “the builder will provide a play area of their choice in terms of what it is and where it is, done at their cost. The city will have no responsibility for it. The play area will need to be installed at the time the plat is completed.”

Councilmember Scott clarified that the motion did not include any language concerning ongoing maintenance or replacement of the play equipment. In addition, the clause concerning the reduction of park in lieu fees had been deleted.

Councilmember Kaplan, as seconder to the original amendment, **seconded the substitute motion**.

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

MOTION was made by Councilmember Sherman and seconded by Mayor Pro Tem Thomasson to delete Item No. 6 and maintain the required twenty foot perimeter.

Upon questioning, Land Use Planner I Sullivan confirmed that, if the area was zone RS-7200, a twenty foot perimeter yard/ buffer area would be required.

Councilmember Scott voiced concern that the functional space or slope of the property was not being considered. She felt that more than ten feet was needed for a functional backyard.

Mayor Pro Tem Thomasson commented that Lots 52 – 59 could accommodate a twenty foot set-back but a setback of over ten feet on the three lots at the entrance to the PUD would make the lots unusable. He voiced his preference for a twenty foot setback next to existing houses.

Councilmember Sherman said that he was primarily concerned with the existing homeowners as they have a reasonable right to expect greater setbacks.

VOTE ON MOTION: Motion failed, 3 – 4, with Mayor Sheckler and Councilmembers Kaplan, Pina, and White opposed.

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

MOTION was made by Mayor Pro Tem Thomasson, seconded by Mayor Sheckler and passed unanimously to direct staff to revise the draft resolution to spell out the deviations as directed; revise the findings of fact to specifically identify the basis for the decisions Council made and the six policy decisions made by the City Council (slopes, Wetland A, Wetland B, Wetland C, PUD, and subdivision); the applicant to revise the preliminary plat map to correctly illustrate the policy direction as given. Once completed, this should be brought back to Council for further action.

OLD BUSINESS

Draft Ordinance No. 06-244 Adopting 2007 Budget ***[Assigned Ord. No. 1392]*** - 1st Reading

Finance Director Henderson noted that Council's direction had been incorporated into the proposed ordinance.

MOTION was made by Councilmember White, seconded by Mayor Sheckler, and passed unanimously to suspend Council Rule 26(b) to consider Draft Ordinance No. 06-244 on the first reading.

MOTION was made by Councilmember White and seconded by Councilmember Pina to adopt Draft Ordinance No. 06-244 adopting the final budget for the City of Des Moines, Washington, for the fiscal year ending December 31, 2007.

Councilmember Sherman noted that last year's budget's operational deficit was $300,000 while this year's deficit was over $700,000. As the budget was balanced but not sustainable, he would not support the motion.

Councilmember Pina said that Council needed to adopt a process which included prioritizes for government.

Councilmembers White and Kaplan agreed.

Mayor Sheckler confirmed that he had a consultant scheduled to work with Council on the prioritizing for government process next year.

Councilmember Kaplan voiced agreement with Councilmember Sherman's comments and said that he could not support the proposed budget. He highlighted the following points regarding the proposed budget:

- The City would be paying double for jail costs due to the Yakima County agreement. The Yakima County costs would expire in one year.

- Destination Des Moines and the Arts Commission had been funded with one-time money.

Councilmember Kaplan voiced frustration with the budget process. He said that Council needed to be able to get through the proposed initial budget in a shorter period of time. The budget was the most important policy document Council adopted each year. Because the City did not prioritize needs, he would not support the motion.

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

[Editor's Note: Mayor Sheckler read the title of the Draft Ordinance No. 06-244 into the record during discussion of the next business item.]

Draft Ordinance No. 06-235 ***[Assigned Ord. No. 1393]*** Creating Des Moines Arts Commission - 1st Reading

MOTION was made by Mayor Sheckler and seconded by Councilmember Scott to suspend Council Rule 26(b) to consider Draft Ordinance No. 06-235 on the first reading.

Mayor Pro Tem Thomasson questioned why a twelve member board was proposed and why three year terms rather than four year terms were proposed.

Park and Recreation Director Thorell explained that the twelve member committee had been proposed by the Steering Committee.

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

MOTION was made by Mayor Sheckler and seconded by Councilmember Scott to approve Draft Ordinance No. 06-235 creating the Des Moines Arts Commission, and adding a new chapter to Title 4 DMMC entitled the Des Moines Arts Commission.

MOTION was made by Councilmember Kaplan and seconded by Councilmember White to amend Section 5.2 as follows: The initial appointment term will be 3 members for one year, 3 members for two years, and 3 members for three years, to provide for staggered terms.

Councilmember Scott noted that not everyone would be available for every meeting. As twelve people were available, she did not wish to limit the committee to nine individuals.

Park and Recreation Director Thorell clarified that the Commission preferred to have a Councilmember as a non-voting liaison. She did not think that the Commission would mind if the number of members was reduced.

Mayor Pro Tem Thomasson recommended that the committee be structured similar to other advisory committees. He noted that it was often difficult to fill committee vacancies. Mayor Pro Tem Thomasson voiced his preference for a seven member committee with four year terms.

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

MOTION was made by Councilmember Kaplan and seconded by Mayor Sheckler to amend Section 2 as follows: The Des Moines Arts Commission shall consist of nine members. Members shall be artists, members of arts groups, or individuals interested in the arts. One member of the Des Moines City Council shall act as a liaison with the Des Moines Arts Commission. **VOTE ON MOTION**: Motion passed, 6 – 1, with Mayor Pro Tem Thomasson opposed.

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

Mayor Sheckler read the title of Draft Ordinance Nos. 03-235 and 06-244 into the record.

Reconsideration of Interlocal Agreement Renewal with Normandy Park for Court Services

MOTION was made by Mayor Sheckler and seconded by Councilmember Kaplan to approve the Interlocal Agreement between the City of Normandy Park and the City of Des Moines for Municipal Court services and facilities and to authorize the City Manager to sign the agreement substantially in the form as submitted.

City Manager Piasecki noted that the original hourly rate was $64.05. With the facility overhead costs included, the hourly rate increased to $70.96.

Court Services Manager Henson said that the adjusted rate for criminal cases and impounds would be $106.44 and the adjusted rate for infractions would be $42.58.

MOTION was made by Councilmember Sherman and seconded by Mayor Sheckler to substitute the figures just mentioned in the agreement.

Councilmember Sherman said that he did not believe that the adjusted figures included all costs but he would support the motion.

VOTE ON MOTION: Motion passed unanimously.

NEXT MEETING DATE - Study Session December 7, 2006

ADJOURNMENT

At 10:20 p.m., **motion** was made by Councilmember Kaplan, seconded by Councilmember White and passed unanimously to adjourn the meeting.

Respectfully submitted,

Angela M. Chaufty
Deputy City Clerk

ACTION ITEMS FROM 11/30/06 COUNCIL MEETING – None.